

DR. AMBEDKAR IN THE BOMBAY LEGISLATURE

PART II

Contents

PART II

16. [On the Hereditary Offices Act Amendment Bill : 2, 4th August 1928](#)
17. [Bill No. XXIII of 1937 to amend the Bombay Hereditary Offices Act, 17th September 1937](#)
18. [On the Hereditary Offices Act Amendment Bill No. XXIII of 1937, 17th September 1937](#)
19. [Bill No. XX of 1937 to abolish the Khoti System, 17th September 1937](#)
20. [On a Bill to abolish the Khoti System, 17th September 1937](#)
21. [On Village Panchayats Bill: 1, 6th October 1932](#)
22. [On Village Panchayats Bill : 2, 10th February 1933](#)
23. [On Village Panchayats Bill : 3, 13th February 1933](#)
24. [On Village Panchayats Bill : 4, 24th March 1933](#)
25. [On Local Boards Act Amendment Bill : 1, 18th January 1938](#)
26. [On Local Boards Act Amendment Bill : 2, 22nd January 1938](#)
27. [On Small Holders' Relief Bill :1, 10th October 1927](#)
28. [On Small Holders' Relief Bill : 2, 30th June 1928](#)
[\(Minute of dissent from the Report of the Select Committee\)](#)
29. [On Small Holders' Relief Bill : 3, 24th January 1938](#)
30. [On the Bombay Police Act Amendment Bill : 1, 27th April 1938](#)
31. [On the Bombay Police Act Amendment Bill : 2, 28th April 1938](#)
32. [On the Bombay Police Act Amendment Bill : 3, 29th April 1938](#)
33. [On the City of Bombay Municipal Act Amendment Bill, 3rd May 1938](#)
34. [On Prohibition, 10th March 1927](#)
35. [On Maternity Benefit Bill, 28th July 1928](#)
36. [On Punishment of Whipping, 18th February 1933](#)
37. [On Ministers' Salaries Bill, 23rd August 1937](#)

ON THE HEREDITARY OFFICES ACT AMENDMENT BILL: 2

(Discussion on Bill No. XII of 1928, a Bill further to amend the Bombay Hereditary Offices Act, 1874, resumed)

Dr. B. R. Ambedkar: Sir, I am very much thankful, indeed to the nonofficial members of this House for the very warm and whole-hearted support which they have given to this measure. Sir, the debate has not disclosed that the opponents of this bill have made out any case against it and I do not think, therefore, that it is necessary on my part at this stage to enter into any details in reply to the objections that they have registered, All that they have done is to raise and place before this House certain matters, what we call " matters of prejudice ", something which does not touch the intrinsic merits of the bill itself. Sir, I have admitted in my opening speech that the bill has no doubt probably certain defects, as is pointed out by a few of the honourable members opposite, and I made it plain in my opening speech that I leave an open door to the select committee to make such amendments that they may desire to make. I make no objections on that score

An Honourable Member : Amendments even of principle ?

Dr. B. R. Ambedkar: Such amendments that the select Committee may want to make, even of principle; I have no objection at all. Any amendments that the select committee may desire to make

Sardar G. N. Mujumdar : Even of principle ?

Dr. B. R. Ambedkar: Yes, I would much rather leave this bill in the hands of the select committee made up of non-official members of this House than leave it to the tender mercies of the officials. That I am prepared to do. Let the fate of the bill be what it may, but I leave it to the nonofficial members of the select committee of this House. Sir, I do not think that this procedure is going to inconvenience the Honourable the Revenue Member. Sir, I do not wish to incorporate into this bill any allegations or accusations against the official members. But I am constrained to say this, that they have certainly not treated this subject with the same urgency and with the same importance or with the same concern with which the depressed classes have viewed this bill. I remember a resolution was placed before this House in February 1923 discussing specifically some part of the provisions of this bill. The whole of that resolution was looked upon with the utmost favour by the non-official members of that House. The Honourable the Revenue Member then induced the member in charge of the resolution to withdraw it on the express understanding that he would institute immediate enquiries into the matter. Sir, four or five years have elapsed since that date, but no enquiry has been made at all. Sir, again a

resolution was moved by my predecessor in the year 1925 raising the same issue which this bill raises. Then again, the honourable mover of the resolution was induced to withdraw the resolution by the Government on the specific understanding that they would make enquiries into this matter. But nothing has been done. I do not think that it can lie in the mouth of my honourable friend the Revenue Member, that this bill is in any way a surprise sprung upon him. The provisions of this bill, that is, the demands that the depressed classes are making in the matter of their watan, are before him for a long time. If he really wanted to arm himself with facts and figures, if he really wanted to formulate his own proposals in substitution of the proposal which I have made, I submit, Sir, that he has sufficient time on his hands to do so. He has not availed himself of that opportunity which he had. All the same, I am prepared to offer him another opportunity and I say this, that if the bill goes to the select committee, I am prepared to move that the select committee shall make this report some time in June next; so that my honourable friend will have practically nine or ten months in between to make enquiries, to appoint any separate committee he wants to do of persons whom he regards as experts. He may thereby be in a position to formulate his own proposals and come before the select committee and move them by way of amendments. I have no objection to that, and if my honourable friend accepts that, I am perfectly willing to adopt that course. It is for him to say. But, as I said at the very beginning I am prepared to leave this measure in the hands of the select committee constituted of this House. I am not prepared to leave this measure to the official side. That is. Sir, what I want to say in reply.

17

BILL No. XXIII OF 1937 TO AMEND THE BOMBAY HEREDITARY OFFICES ACT

The following Bill for the introduction of which leave was granted to Dr. B. R. Ambedkar, M.L.A., at the meeting of the Bombay Legislative Assembly on the 17th September 1937 is published under rule 20 of the Bombay Legislative Assembly Rules :— BILL No. XXIII OF 1937

A Bill to amend the Bombay Hereditary Offices Act III of 1874. Whereas it is expedient further to amend the Bombay Hereditary Offices Act, 1874 (Bom. III of 1874) in manner hereinafter appearing; It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Bombay Hereditary Offices (Amendment) Act, 1937.

2. *Amendment of section 15 of Bom. III of 1874.*—For section 15, clause I, the following shall be substituted:—

15. *Clause 1.*—When the holder of a watan or any member of a watan family having an interest in the watan applies to the Collector in writing to relieve him in perpetuity of liability to perform services, the Collector shall so relieve him on being satisfied that the application is genuine.

Clause 2.—From the date when he is relieved from liability to serve he shall cease to be the holder of a watan and shall not be entitled to any rights existing from his watan except as is provided for in clause 3 hereof.

Clause 3.—On his agreeing to pay full assessment every holder of a watan who is relieved from the liability to serve under clauses 1 and 2 of this section shall be allowed to retain the land which he was entitled as the holder of the watan and shall be deemed to be an occupant of it within the meaning of section 3(16) of the Bombay Land Revenue Code.

Clause 4.—It shall be lawful for the Collector to apportion the land to the applicant who is relieved from service if it is held jointly by more than one watandar or watan families.

Clause 5.—The land which is allowed to be retained by such applicant who is relieved from service shall cease to be regarded as watan land assigned as remuneration of an officiator.

3. Clause 2 shall be renumbered as clause 6.

4. Clause 3 shall be renumbered as clause 7.

5. In clause 4 after the words " the whole number of joint owners " the words " or one or some of such joint owners " shall be added. Clause 4 shall be renumbered as clause 8.

6. *Amendment of section 16 of Bom. III of 1874.*—In section 16 for the word " originally ", the word " primarily " shall be substituted.

7. *Amendment of section 19 of Bom. III of 1874.*—In section 19 the words " and to decide whether the payment shall be made in kind or money " shall be deleted.

8. *Insertion of new sections 19A, 19B, 19C and 19D, after section 19 of Bom. III of 1874.*—After section 19, the following new sections shall be added:—

" 19A. *Conversion of a right to a levy in kind into an equivalent money cess, by the Collector.*—When the whole body of representative watandars or a majority of them whose watan property consists of a right to a levy in kind apply to the Collector to convert such right into a money cess, the Collector shall then convert the same into an equivalent money cess.

" 19B. *Recovery and payment of money cess by the Collector.*—When such a right to a levy in kind has been converted into an equivalent money cess the whole body of representative watandars or a majority of them concerned may apply to the Collector to recover the same from those who are liable to pay. The Collector shall then recover the same along with and as part of the land

revenue and shall direct that the same be paid from Government Treasury to those watandars entitled to the same.

" 19C. *The Collector to decide on application from watandars how much money cess is due to them for services to Government and how much for services to ryots.*—In case where such a right to a levy in kind be deemed a joint return for services to both the ryots and the Government, the whole body of representative watandars or a majority of them whose right to a levy in kind has been converted into a money cess may apply to the Collector to decide how much of the money cess is due to them for services to Government and how much for services to the ryots. The Collector shall then give such a decision, which decision shall be deemed to be final.

" 19D. *Option to the watandars to refuse to render any service to the ryots.*—The whole body of representative watandars or a majority of them who have asked for such a decision as is referred to in section 19C, shall have the option to refuse to render any service to the ryots provided they inform the Collector in writing of their decision in this behalf. In case such option is exercised, the watandars exercising such option shall forfeit that portion of the money cess due to them for services to the ryots."

9. *Amendment of section 21 of Bom. III of 1874*—In section 21 for the words " such periods " the words " a period of 10 years " shall be substituted.

10. *Amendment of section 83 of Bom. III of 1874*—For section 83, the following shall be substituted :—

" 83. Except as is otherwise provided for in section 18, Government shall have power to make rules laying down the duties that are to appertain to any hereditary office. Provided that the rules made under this section shall be laid on the table of the Legislature for not less than one month previous to the next session thereof and shall be liable to be rescinded or modified by a resolution of the Legislature. If any rule is modified or rescinded, Government shall accept the modification and republish the rule accordingly or shall rescind the rule."

Statement for Objects and Reasons

Three purposes underlie the Bill. First is to permit commutation of the watan at the option of the holder, second to provide better security for the payment of the remuneration of certain classes of watandars and the third purpose is to provide for specification by rules of the duties to be performed by the watandars.

Sections 2-6 are designed to give effect to the first of these purposes. Sections 7-9 are intended to carry out the second purpose and section 10 is to meet the third purpose of the Bill,—

(0 Section 2 allows a watandar who wishes to do so to free himself from the

liability to serve as a watandar without involving a loss to his right to the land which formed part of his watan. While it allows such a watandar to retain the land it does not involve any loss to Government because Government will be entitled to recover from him full survey assessment.

(ii) Sections 3 and 4 are formal.

(iii) Section 5 makes it possible for one or some of the joint owners of the watan to apply for being relieved from service.

(iv) Section 6 is intended to define more accurately who shall be liable for service to the community by the use of the word " primarily " .

(v) Section 7 provides that there shall be no discretion left to the Collector in determining whether the collection shall be made in kind or in money.

(vi) *Section 8 adds four new sections to the Act.*—Section 19A gives the right to watandars to apply to the Collector to convert payment in kind into payment in money and requires the Collector to convert the same in its money equivalent.

Section 19B places an obligation on the Collector to collect the money cess as part of the land revenue if required to do so by the watandars. Section 19C gives the Collector the power in cases where the remuneration of the watandar is a joint payment for services to Government as well as to the ryots to decide how much of it is for services to Government and how much is for services to the ryots.

Section 19D gives an option to the watandar to free himself from the liability to serve the ryots subject to his foregoing any claim to that part of the remuneration fixed by the Collector under section 19C as being due for services rendered to the ryots.

(vii) Section 9 fixes 10 years as the maximum period for any settlement made by the Collector under section 21 in respect of the profits of the watan.

(viii) Section 10 merely requires that the duties to be performed shall be laid down by rules.

(SIGNED) B. R. AMBEDKAR

H. K. CHAINANI,
Secretary to the Bombay Legislative Assembly.

Poona, 18th October 1937.

18

**ON THE HEREDITARY OFFICES ACT AMENDMENT BILL No. XXIII OF
1937**

Dr. B. R. Ambedkar (Bombay City): Sir, I rise to move for leave to introduce a

Bill to amend the Bombay Hereditary Offices Act III of 1874.

Three purposes underlie the Bill. The first is to permit commutation of the watan at the option of the holder, the second to provide better security for the payment of the remuneration of certain classes of watandars, and the third purpose is to provide for specification by rules of the duties to be performed by the watandars.

Sections 2-6 are designed to give effect to the first of these purposes. Sections 7-9 are intended to carry out the second purpose and section 10 is to meet the third purpose of the Bill.

Section 2 allows a watandar who wishes to do so to free himself from the liability to serve as a watandar without involving a loss to his right to the land which formed part of his watan. While it allows such a watandar to retain the land, it does not involve any loss to Government because Government will be entitled to recover from him full survey assessment. Sections 3 and 4 are formal.

Section 5 makes it possible for one or some of the joint owners of the watan to apply for being relieved from service.

Section 6 is intended to define more accurately who shall be liable for service to the community by the use of the word " primarily " .

Section 7 provides that there shall be no discretion left to the Collector in determining whether the collection shall be made in kind or in money. Section 8 adds four new sections to the Act.

Section 19A gives the right to watandars to apply to the Collector to convert payment in kind into payment in money and requires the Collector to convert the same in its money equivalent.

Section 19B places an obligation on the Collector to collect the money cess as part of the land revenue if required to do so by the watandars.

Section 19C gives the Collector the power in cases where the remuneration of the watandar is a joint payment for services to Government as well as to the ryots to decide how much of it is for services to Government and how much is for services to the ryots. Question put, and leave granted.

Dr. B. R. Ambedkar: Sir, I introduce the Bill.

The Honourable the Speaker: The Bill is introduced.

19

BILL No. XX OF 1937 TO ABOLISH THE KHOTI SYSTEM

The following Bill for the introduction of which leave was granted to Dr. B. R. Ambedkar, M.L.A., at the meeting of the Bombay Legislative Assembly on the

17th September 1937 is published under rule 20 of the Bombay Legislative Assembly Rules :—

BILL No. XX OF 1937 *A Bill to abolish the Khoti System*

WHEREAS it is desirable and necessary to abolish the system of revenue farming known as the Khoti System and to extend the principles of the Rayatwari System as being more beneficial to the area where the Khoti-System is in operation; It is hereby enacted as follows : —

1. *Short title and extent*—*This Act shall be called " The Khoti Abolition Act, 1937."* It shall extend to the whole of the Presidency of Bombay.
2. *Abolition of Khoti System.*—After the passing of this Act it shall be lawful for Government by notification in the *Government Gazette* to declare that the Khoti Rights of a particular khot or of khots in a particular area are abolished from such date as may be mentioned in the said notification.
3. *After notification Khot not entitled to act as Khot and Government not bound to employ or recognise him as Khot.*—From the date of any such notification so much of any law, custom or usage now in force which entitles the Khot to act as a Khot or which requires Government to employ or recognise a Khot or which confers upon him the rights of Khot shall cease to be enforced in any suit or proceedings in any Court.
4. *After notification Khot free from liability in respect of revenue.*—From the date of any such notification the Khot shall be free from any liability to Government relating to revenue becoming due after the date of the notification.
5. *Compensation to Khots.*—(i) It shall be lawful for Government to pay reasonable compensation to the Khot for the loss of his rights as a Khot suffered by him in consequence of the notification :

Provided that the compensation shall not exceed one per cent. of the assessment leviable under the Land Revenue Code in respect of the land held by him as Khot .

(ii) The decision of Government regarding the amount of compensation shall be final and conclusive.

(iii) It shall be lawful for Government to pay compensation due to a Khot in cash, bonds or annuity or in any other form and the decision of the Government as to the form and mode of payment shall be final and conclusive.

6. *Inferior holders of Khoti villages to be occupants.*—When the Khoti System in any area has been abolished under the provisions of this Act all persons in possession of the lands in that area whether under the management or beneficial enjoyment of the Khot shall be regarded as occupants of the lands in their possession within the meaning of section 3(76) of the Land Revenue Code, 1879, and shall have the same rights and be affected by the same

responsibility in respect of lands in their possession as the occupants of the unalienated land have been or are affected by or under the provisions of the said Code and all the provisions of the said Code shall be applicable to them.

7. *Determination of disputes regarding Claims to occupancy rights.*—In case there is a dispute as to who should be the occupants of a particular holding priority shall be granted to the claimant whose occupation of the land has been of greater duration during the 12 years preceding the notification.

8. *Rights to occupancy not lost by disturbance.*—Any disturbance caused to the rights of an inferior holder after the passing of the Act shall not prejudice the rights to which he may be entitled under section 6 of this Act.

9. *Inquiry into disputes as to rights to compensation by Khots and rights to occupancy by inferior holders.*—(i) It shall be lawful for Government to appoint an officer to enquire into and decide all disputes arising under this Act between persons claiming to be interested as occupants of lands in the area in which the Khoti System has ceased to exist, and also disputes between persons laying a claim to the compensation payable under this Act.

(ii) For the purpose of enquiries under this Act the Officer shall have power to summon and enforce the attendance of witnesses including the parties interested or any of them and to compel the production of documents by the same means and so far as may be in the same manner as is provided in the case of a Civil Court under the Code of Civil Procedure, 1908.

(iii) The provisions of sections 9, 10, 11, 12, 13, 14 and 15 of the Land Acquisition Act, 1894, shall so far as may be apply to the proceedings held under this Act for the determination of the amount of compensation to be paid or of the right to be recognised as an occupant.

(iv) It shall be lawful for the officer to compel the Khot or the inferior holder to produce all documents, records and registers in his possession or power for the purpose of any enquiry that may be necessary for settling disputes regarding rights to the amount of compensation or regarding rights to occupancy.

(v) The Officer shall lodge his decision with the Collector and shall communicate in writing his decision regarding claims, to a right to occupancy in the land or claims to a right to the compensation to the persons making such claims.

(vi) If the Officer is unable to satisfy himself as to which of the different claimants was entitled to compensation he may suspend payment of compensation until a competent Civil Court has determined the rights of the persons who have claimed the compensation.

10. *Reference by inferior holders whose claim to occupancy has been rejected.*—(1) Any person who is aggrieved by reason of the fact that his claim for being registered as an occupant is rejected by an order passed by an

Officer specially deputed by the Government in his behalf shall by a written application to the Collector require that the question of his claim be referred by the Collector for the determination of the District Court within whose local jurisdiction the whole or part of the land is situated or a Tribunal appointed by Government in this behalf.

(ii) The application shall state the grounds of his objections to the decision of the Officer and shall be submitted within 90 days from the date of the service of the order rejecting his claim.

(iii) The Collector shall refer the application to the District Court or the Tribunal as the case may be. The application shall be numbered and registered as a suit between the applicant as plaintiff and the person or persons who have been declared by the Officer to be entitled to occupancy as defendant.

(iv) On such application being registered the Court or the Tribunal shall direct notice thereof to be given to the defendant or defendants to appear and answer the claim on a date to be therein specified.

(v) The application shall be set down for hearing as a suit instituted in the ordinary manner under the provisions of the Code of Civil Procedure, 1908, shall apply to such suits so far as the same are applicable.

(vi) No appeal shall lie from any decision given or order passed in any such suit by the Court or by the Tribunal.

11. *Statements to be filed by Khots.*—(1) Within three months from the passing of this Act the Collector shall by notice in writing require every Khot to lodge with him on or before a day named by him in the notice (which day shall not be later than three months from the date of the notice) a statement signed by the Khot showing:—

(i) The survey numbers of all lands of which he is a superior holder as a Khot or otherwise;

(ii) the persons who have been in occupation of each survey number for each year commencing from the year 1920 to the date of the passing of this Act; and

(iii) the title and the nature of the interest claimed by the Khot in each such survey numbers.

(2) The Khot shall report to the Collector from time to time in writing of any change that may subsequently occur in any of the particulars contained in the statement lodged under sub-section (i).

(3) *Liability to make statement.*—Every Khot required to make or deliver a statement under the preceding section shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code.

12. *Statement to be evidence.*—The entries in the statement furnished by the Khot under section II shall be conclusive evidence as against the Khot of the facts contained therein in any suit or proceeding to which the Khot or his

representative in interest is a party.

13. *Penalty for not furnishing statement.*—(i) Any Khot who in contravention of the provision contained in sub-sections (7) and (2) of section 11 refuse or neglects to lodge a statement when required to do so or refuses or neglects to report any change occurring subsequently in any of the particulars of the statement shall be punished for each such offence with fine which may extend to 100 rupees.

(ii) Any Khot neglecting to make a statement as required by subsection (7) of section II within the prescribed period shall be liable at the discretion of the Collector to be charged a late fee not exceeding five rupees a day of every day of the delay which shall be leviable as an arrears of Land Revenue.

14. *Provision for obtaining certified copies.*—In all cases in which a statement is lodged by the Khot and in all cases in which in the course of an enquiry documents have been filed and decisions have been given authenticated copies of entries in the statement of documents and decisions shall be furnished to the parties and to those claiming under them on due application being made for the same subject to such charges for copying, etc., as may from time to time be prescribed by Government.

15. *Authority to Government to make rules.*—(1) It shall be lawful for the Government to make rules for giving effect to the provisions of this Act and in particular providing for—

(i) the form, contents, publication and service of the notification. (ii) the determination of the amount of compensation, and the mode of payment,

(iii) the appointment of Tribunal to hear and decide references, (iv) the fees and cost to be paid by claimants on applications, references and authenticated copies of documents, entries and decisions arising in any proceedings under the Act,

(v) the production of documents by parties and the maintenance of the documents produced or lodged.

(2) The power to make rules under this section shall be subject to the condition of previous publication in the *Bombay Government Gazette*.

(3) The rules made under this section shall be laid on the table of the Legislative Assembly for not less than one month previous to the next session thereof and shall be liable to be rescinded or modified by a resolution of the said Assembly. If any rule is modified or rescinded, Government shall accept the modification and republish the rule accordingly or shall rescind the rule.

Statement of Objects and Reasons

1. The Khoti System is one of the minor land tenures in the Bombay Presidency. It is found mostly in the Ratnagiri District and in some parts of the Kolaba and Thana districts.

2. The terms of the Khoti Tenure are in some cases regulated by law, in some by custom and usage and in the rest by grant. In the Ratnagiri District the terms are regulated by Bombay Act I of 1880. In the Kolaba District the terms are regulated by custom and usage and in the Thana District by grant.

3. The Khoti Tenure differs from the ordinary Rayatwari Tenure inasmuch as in the latter the Government collects revenue directly from those who are in occupation of the land while in the former the Government is required to employ the services of the Khot for the purpose of collecting revenue.

4. The system of Khoti Tenure while it binds the Khot to pay revenue to the Government leaves him free to do what he likes to the inferior holders and this freedom has been so grossly abused by the Khots that the inferior holders are not only subjected to all kinds of exactions but they have been reduced to a state of abject slavery. In recent years the inferior holders have been carrying on a great agitation against Khots and have been demanding the abolition of the Khoti system. The relations between the khots and the inferior holders have been so strained that three Khots were murdered by them.

5. While the Khoti Tenure may have the advantage of facilitating the collection of revenue its disadvantages are so great that the Tenure cannot be allowed to continue hereafter without causing grave disturbance to the peace and tranquillity of the Presidency. It is therefore imperative to abolish the system.

6. The Bill aims (1) to abolish the Khoti System and to establish direct relationship between Government and those who are in possession or occupation of the land which is under the management or beneficial enjoyment of the Khot, (2) to make provision for the payment of reasonable compensation to the Khot for the loss of his rights and (3) to give those inferior holders who are in actual occupation of the land the status of occupants within the meaning of the Land Revenue Code and (4) to provide for other incidental purposes.

(Signed) B. R. AMBEDKAR.

H. K. CHAINANI,

Secretary to the Bombay Legislative Assembly.

Poona, 18th October, 1937.

20

ON A BILL TO ABOLISH THE KHOTI SYSTEM

Dr. B. R. Ambedkar (Bombay City, Byculla and Parel): Sir, I rise to move for leave to introduce a Bill to abolish the Khoti system. The brief statement which you have directed us to make in support of the motion will, in my case, consist of nothing more than a reference to the statement of objects and reasons. And

before I do so, I would point out, Mr. Speaker, that this is the shortest statement of objects and reasons ever drafted to a Bill which is so important as the abolition of the Khoti system.

The Khoti system is one of the minor land tenures in the Bombay Presidency. It is found mostly in the Ratnagiri district and in some parts of the Kolaba and Thana districts.

The terms of the Khoti tenure are in some cases regulated by law, in some by custom and usage and in the rest by grant. In the Ratnagiri district the terms are regulated by Bombay Act I of 1880, in the Kolaba district the terms are regulated by custom and usage, and in the Thana district by grant.

The Khoti tenure differs from the ordinary Rayatwari tenure inasmuch as in the latter the Government collects revenue directly from those who are in occupation of the land while in the former the Government is required to employ the services of the Khot for the purpose of collecting revenue.

The system of Khoti tenure, while it binds the Khot to pay revenue to the Government, leaves him free to do what he likes to the inferior holders, and this freedom has been so grossly abused by the Khots that the inferior holders are not only subjected to all kinds of exactions but they have been reduced to a state of abject slavery. In recent years, the inferior holders have been carrying on a great agitation against the Khots and have been demanding the abolition of the Khoti system. The relations between the Khots and the inferior holders have been so strained that three Khots were murdered by them.

While the Khoti tenure may have the advantage of facilitating the collection of revenue, its disadvantages are so great that the tenure cannot be allowed to continue hereafter without causing grave disturbance to the peace and tranquillity of the Presidency. It is therefore imperative to abolish the system.

The Bill aims (1) to abolish the Khoti system and to establish direct relationship between Government and those who are in possession or occupation of the land which is under the management or beneficial enjoyment of the Khot, (2) to make provision for the payment of reasonable compensation to the Khot for the loss of his rights, and (3) to give those inferior holders who are in actual occupation of the land the status of occupants within the meaning of the Land Revenue Code, and (4) to provide for other incidental purposes.

With these words, Sir, I beg leave of the House to introduce the Bill. Question proposed.

Mr. S. L. Karandikar (Ratnagiri North): Mr. Speaker, Sir, I rise to oppose the introduction of this Bill. (Interruption.) I would not ordinarily have opposed the introduction, because it seems to be a formality in this House to allow introduction unopposed. But I think it my duty to oppose this Bill at its very introduction for one reason only.

When the land revenue question was being discussed in this House at the time of the demands for grants, it was made clear to us by the Honourable the Revenue Member, when he gave us an assurance, that the whole question of land revenue policy in the Presidency would be taken up some time in ensuing February, and therefore, we have to wait before we do anything. We should not accept any piecemeal legislation in regard to any item of land revenue. Therefore, even the members on the Treasury benches will agree with me when I say that this piecemeal legislation that is being proposed should not be allowed to be introduced in this House.

There are so many other remarks that I would have liked to oppose, because the introductory remarks were read out to the House ; but, I believe, there is sufficient time ahead when all these matters will have to be discussed and fought for. Therefore, I do not want to take up any more time of the House. But I think this is a matter of principle. Government have given us an assurance that the whole question of land revenue in this Presidency will be taken up for consideration and that legislation on a broad basis will be brought before this House some time in January or February. There is no reason why an exception should be made so far as this legislation relating to Kolaba and Ratnagiri is concerned. With these remarks, I oppose the introduction.

The Honourable the Speaker: I do not think that any other member has a right to participate in this, treating it as a debate. The honourable member who begs leave to introduce the Bill has a right of reply ; and if he wants to reply, I will give him a chance.

Dr. B. R. Ambedkar: Sir, I do not think that any very detailed reply is called for by the observations made by my honourable friend Mr. Karandikar. He said that the Honourable the Revenue Minister has given an assurance to the House that he is going to bring in legislation in order to overhaul the whole of the revenue system. Unfortunately, I was not present when this assurance was given; and I personally myself do not know exactly the extent and the scope of the assurance that he gave to the House. But, Sir, what I should like to submit to the House is this. The Khoti system is a system which stands by itself. It is not a system which comes under the Land Revenue Code and therefore can be said to be a part and parcel of the general land tenure of this Presidency. It is a separate item altogether. Therefore, I do not see any objection to a system which does not come under the general system being considered by itself.

My second submission to the House is that if the honourable members who occupy the Treasury Bench do in fact intend to carry out what they have assured the House they will, and if I find that the measures that they are bringing forth in order to deal with the subject with which this Bill deals are of such a nature that I should be content with the remedies which they propose,

then I have no hesitation in saying that I will withdraw the Bill if I find that their legislation is superior to mine. I do not think anything more is necessary for me to say on this occasion. Question put, and leave granted.

Dr. B. R. Ambedkar: Sir, I introduce the Bill.

The Honourable the Speaker : The Bill is introduced.

21

ON VILLAGE PANCHAYATS BILL: 1

Dr. B. R. Ambedkar: Mr. President, I have listened with very great interest to the speech delivered by the Honourable Minister in charge of this Bill. Sir, I must also say that I have listened to it with very grave concern. I am sure there can be no two opinions on the fact that this Bill deals with some very vital issues. It not only deals with the question of self-government in so far as it affects the civic amenities of the rural population of this Presidency, but it also affects the question of the life, liberty and property of the rural population. Having regard to these vital issues involved in this Bill, I am bound to say that the Honourable Minister, in justice to all the interests concerned, ought to have given a longer period for the consideration of the implications involved in this Bill. Sir, he has chosen to satisfy his conscience by barely complying with the requirements of the law by allowing seven days to pass before the Bill was brought for consideration. May I say that in my opinion not only seven days but seven months are necessary for the consideration of this Bill ? And I suggest that there would be nothing wrong even now in the Honourable Minister sending this Bill for circulation in order to elicit the opinion of the general public on the issues involved in this Bill. That course I would request him with all due respect to adopt, but if he does not, I would like to address to him two other considerations which, in my opinion, are very important considerations. Sir, I would like to say that, in my opinion, the present Government is not competent to undertake this piece of legislation. The Government is aware that the present system of administration is a discredited system. I am not using that in any carping sense. I am only trying to depict the facts as we all know them. Sir, no section of the population of this country is satisfied with the administration and the working of this Government. Indeed, if one wants to state facts as they are, there is a powerful section in this country which is not prepared to admit and to acknowledge the moral authority of this Government to rule. Sir, we also know that we are on the threshold of a new constitution. We know that the constitution of India for a government of the people, by the people and for the people is on the anvil. We all know and I think we are justified in hoping that

this new constitution will be forged within the short period of a year or two, and that a new government, supported fully by all sections of the community, will be installed. Sir, having regard to that consideration, I would like to point out to the Honourable Minister and to those honourable members who are occupying the Treasury Bench that they in their present position are no better than caretakers. Sir, by common consent a caretaker cannot undertake substantial alterations in the premises he is appointed to look after. At the most, during the interval before the real occupant comes to occupy his abode, he may undertake repairs in order to keep the building in working order.

I would also like to point out to the Honourable Minister the analogy of parliamentary life. In England where parliamentary system has been in operation for centuries now, when a Ministry is defeated and when the defeated Ministry does not resign outright and allow the reins to pass into the hands of the opposition but chooses to make its appeal to the electorate, it is an accepted convention of the constitution that the Ministry so situated must not undertake any legislation of any consequential importance. All that they can do is to look after the administration pending the decision of the electorate so that the new Government may not be embarrassed by anything that may be undertaken by such a Government. I ask the Honourable Minister whether he does not wish to abide by the conventions of the parliamentary constitution. I leave it to him to decide.

Sir, I do not find any reason why the Honourable Minister should rush with this measure with such terrific speed, if I may say so, with only seven days notice. I do not find that there is any very great urge, that there is any very great necessity and urgent call upon him by the people of this Presidency to introduce this measure. So far as I am aware, no political party in this country has made this measure a party cry. I do not know that the Liberals, the Responsivists or the Non-Brahmins or the Congress members who were in this House during the last Legislative Council had ever insisted that they looked upon the introduction of the village panchayats as a fundamental part of their programme. I know of no such thing. Not only that, but I do not find that the masses themselves are clamouring for this measure. If you read the report of the Committee made in 1925 on this question appointed to report upon the working of the Village Panchayat Act of 1920, what do you find? You find this. There are in this Presidency as many as 30,000 villages, on a rough calculation. The Act was passed in 1920 permitting the people to apply for the application of that Act voluntarily. What is the result? The result is that the Sind people set their face against the introduction of village panchayats, so that we do not find a single village panchayat instituted in the province of Sind. In the presidency proper, there is a paltry figure of 323 or something like that. I submit

that it is a sad commentary on the civic spirit of the people. Apart from that, it is a proof positive that the people are not anxious for the introduction of village panchayats. I do not wish to go into the reasons of that at this stage, but I am certain that my honourable friend the Minister for Local Self-Government will accept that that is a correct analysis of the situation. Not only that, but I would like to suggest that the reason why he has super-added the judicial functions to the village panchayats is to sweeten the pill so that it may be swallowed more readily. In view of these considerations, I think it would be advisable for the Honourable Minister to postpone the Bill *sine die* so that it may be considered in all its implications on its merits by a new Government which will be fully representative of the people of this Presidency.

Coming to the merits of the Bill itself, Sir, I find that the Bill has two parts. The first part deals with the functions of the panchayat as a body for local self-government. I should like to say at once that I have no objection in principle to the policy of devolution; if it is found that the local boards of this Presidency are overburdened by the functions which are placed upon them by the Local Board Act and if by reason of that they are unable to discharge their functions efficiently, then I say " by all means institute village panchayats so as to disburden the local boards." Sir, if the desire is to constitute panchayats for their own sake, then to my mind it is a reversion to a very dangerous system. Many have eulogised the ancient system of village panchayats. Some have called them " rural republics ". Whatever be the merits of these rural republics, I have not the slightest hesitation in saying that they have been the bane of public life of India. *Mr. Pestanshah N. Vakil*: Question.

Dr. B. R. Ambedkar : If India has not succeeded in producing nationalism, if India has not succeeded in building up a national spirit, the chief reason for that in my opinion is the existence of the village system. It made all people saturated with local particularism, with local patriotism. It left no room for larger civic spirit. None whatever. Under the ancient village panchayats, India, instead of being a country of a united people, became a loose conglomeration of village communities with no common tie except common allegiance to a common King. I am glad to say, Sir, that this is not my opinion alone. A member of the committee which was appointed in 1925 expressed himself in that same strain. I refer to the minute of my friend Mr. R. G. Pradhan. This is what he stated in that minute :

" The excessive village patriotism and village spirit which these communities fostered proved very fatal to the growth of a strong Indian nationality based on the realisation of the territorial unity of India as a whole or of the racial unity of each of our natural territorial divisions."

Mr. Pestanshah N. Vakil: Is Mr. R. G. Pradhan a historian ?

Dr. B. R. Ambedkar : I do not think that we need bring historians here ; we ought to be beware of historians. In these days when you are striving for bringing about a national spirit, in these days when you are striving for bringing about a common nationality and a common sense of Indian citizenship, in my opinion we ought to do nothing which will nullify and which will dilute that sense. I would like to leave this aspect of the matter at that so far as I am concerned.

My next objection is to the constitution of the panchayats themselves. The Bill, as the honourable member has pointed out, provides that the village panchayats shall be elected on the basis of adult suffrage both for males and females. I may at once state that, so far as I am concerned, I say " so far so good ", but I should like to make it clear to the Honourable Minister that, speaking for the depressed classes, I have not the slightest hesitation in saying that adult suffrage is not sufficient for us. The Honourable Minister has forgotten that the depressed classes are in a minority in every village, a miserable minority, and assuming that he adopts adult suffrage, he will readily admit I am sure that adult suffrage cannot convert a minority into a majority. Consequentially I am bound to insist that if these village panchayats come, there shall be special representation for the minorities. At any rate, there shall be special representation for the depressed classes, and others of course will speak for themselves.

I know, Sir, that there is a section in this House who will at once jump and say that this is communalism. Now I agree that this is communalism. But I am also convinced that communalism must be my policy. I am not ashamed of it.

Mr. J. B. Petit: Is that compatible with nationalism ?

Dr. B. R. Ambedkar: Oh, yes. Why not?

Mr. J. B. Petit: I am glad to hear that.

Dr. B. R. Ambedkar : I will say that India cannot proceed, in my opinion at any rate, on the path of political progress without communalism. Without communalism there can be no self-government for India. That is the proposition that I would assert without fear of challenge.

Speaking for the depressed classes, therefore, I can never accept the principle of self-government for India unless I am satisfied that every self-governing institution has provisions in it which give the depressed classes special representation in order to protect their rights, and until that is done, I am afraid it will not be possible for me to assent to the first part of the Bill.

Sir, in respect of this, I am glad to find that two members of the committee which was set up in 1925 to discuss this question supported the plea of the depressed classes for special representation. I refer to the minute of Mr. R. G. Pradhan. This is what he said :

"I am of opinion that provision should be made for the representation of the

depressed classes on the village panchayats by nomination. The nomination should be made either by the Collector or the President of the district local board, preferably the latter. It is eminently desirable in the interests of the proper representation of the depressed classes and much more with a view to raising their general status and making the other classes realise their communal identity with them that there should be at least one member of the depressed classes in every village panchayat. In cases, therefore, where no member of these classes has been able to get in by election, recourse should be had to nomination."

Sir, I should also like to refer to the minute of my honourable friend Mr. P. R. Chikodi. He also wrote a separate minute and this is what he said:

" I think it is necessary that some arrangements ought to be made to secure on panchayats the representation of the depressed classes by means of nomination or by the system of reserved seats in villages where there are at least 50 adult persons belonging to these classes. It is not likely at present that any representative of these stands a chance of being elected at an open election, the failure of such an attempt having come to my notice very lately."

In this connection, I would also like to draw the attention of the Hindu members of this honourable House to the recent events that have happened. I refer to the Poona Pact between the Caste Hindus and the Depressed Classes that was signed on the 24th of last month. Many members, I am sure, must have read the terms of that Pact, but I should like to draw particular attention to one section of it. In that section it has been agreed that the right of the depressed classes to representation in all local bodies shall be accepted and an endeavour shall be made in order to give effect to that part of the agreement. Sir, I would like to draw the attention of the Hindu members to that part of the Pact and I am sure whatever may have been the opinions before 24th of last month, they will now loyally abide by the terms of that Pact.

Now, Sir, I come to what I call the second part of this Bill. I ought to have stated at the very start that when I read this Bill, I was inclined to say that this Bill was, like the curate's egg, bad in parts only. But after having read the whole Bill and gone through all the provisions of the Bill. I am obliged to revise my opinion. I now think that it is worse than the curate's egg. It is not only bad in some parts but it is rotten in others. I refer, Sir, to the judicial provisions of the Village Panchayats Bill. Sir, I do not know what is the view of the Honourable Minister for Local Self-Government as to the requisites of a proper judiciary which could be trusted to deal with civil and criminal justice. I was expecting to hear from him on that point in the course of the opening remarks which he addressed to this House, but he was silent on that point. I think it will be agreed that a judiciary before it could be entrusted with the duties of discharging civil

and criminal justice, must have three requisites. It must be trained in law, it must be impartial in its outlook, and I submit, it must be independent in position. Let us apply these three requisites to the provisions of this Bill. What does the Honourable Minister provide in this Bill ? He says, " We shall elect a panchayat based on adult suffrage, consisting of five or seven members ; those gentlemen will hold office for three years. During the course of these three years they shall not only discharge the functions of a local self-governing body, but in addition to that they will also discharge the functions of trying certain criminal and civil cases." That is, in substance, the provision of this Bill.

Now, the first question that I would like to ask the Honourable Minister is this : Does he expect that these five gentlemen who will be elected on the basis of adult suffrage will have sufficient judicial training to discharge the duties of judges ? Sir, I would like to submit that judicial decisions demand a developed judgement; they demand a vast amount of legal knowledge. (Laughter.) Let there be no laughter, because it is a serious matter. Just take this into consideration. We are all agog when members of the I.C.S. want to have certain places reserved for them in the High Court or in the judiciary. What is the reason for our objection ? If I have understood the objection correctly, it is this, that these gentlemen who have passed the I.C.S. examination have no judicial training, and not having judicial training, we cannot entrust them with judicial powers. That is the gravamen of the objection. They not only want justice, but they want judges who are competent to discharge their duties. Now, I ask the Honourable Minister whether he thinks that a population which is illiterate, which is steeped in ignorance, which is swallowed up in superstition, can produce five good men who can be entrusted to discharge the duties of judges.

Mr. M. M. Karbhari: Are we so bad as that ?

Dr. B. R. Ambedkar: I do not know we may have a difference of opinion on that. But that is my contention. And, supposing it may not be held necessary for these gentlemen to have the necessary legal training, I think we ought at least to expect this much, that they should have proper notions of right, of duty, of equity and good conscience. A population which is hidebound by caste, a population which is infected by ancient prejudices, a population which flouts equality of status and is dominated by notions of gradations in life, a population which thinks that some are high, that some are low—can it be expected to have the right notions even to discharge bare justice ? Sir, I deny that proposition, and I submit that it is not proper to expect us to submit our life and our liberty and our property to the hands of these panchas.

The next proposition that I would like to place before this House is this : Is it possible to expect this panchayat to be an impartial body of judges ? Let us

consider the facts as they are. No honourable member of this House, I am sure, will deny that there are very few villages which are not rent by faction feuds. There are quarrels between the Brahmins and non-Brahmins.....

Dewan Bahadur D. R. Patil: They will remain for ever.

Dr. B. R. Ambedkar: So much the worse for you if they do. There are, I submit, Sir, factions between Brahmins and non-Brahmins, and I think I may as well cite a case, in view of the fact that the honourable member Rao Bahadur Kale is laughing at the suggestion, from what I know of his own district, namely, Satara. I remember at one time the feud between the Brahmins and non-Brahmins had gone to such an extent in a certain village in Satara District that a complete boycott of the Brahmins was proclaimed by the non-Brahmins. They could not get a barber to shave them; they could not get the village Baniya to sell them provisions ; they could not get people to do any service for them. The Brahmin had either to grow a beard or walk seven miles to Satara to have a shave. So, there are quarrels between the depressed classes and the non-Brahmins.

An Honourable Member: They are over.

Dr. B. R. Ambedkar: Unfortunately, far from being over, they have become the order of the day. Not only are there quarrels amongst the Hindus themselves, but there are quarrels between the Hindus and the Mohammedans, and these quarrels are of no ordinary importance, they are serious. I would like the Honourable Minister and the House to consider whether a panchayat elected in an atmosphere of this sort would be impartial enough to distribute justice between men of different castes and men of different creeds. That is a proposition, I submit, which the House and the Honourable Minister should consider seriously.

The next question I would like to ask is, does the Honourable Minister expect that the Judiciary he is bringing into being will be an independent judiciary ? Sir, what is his proposition ? His proposition is that the judiciary shall be elected, because that is what the provisions for a panchayat means. The panchayat which will administer justice will be a panchayat elected by the adult population of the village. I would like to ask him whether he expects that a judge who has to submit himself to the suffrage of the masses will not think twice before doing justice, whether, while giving justice he is offending the sensibility of the voter. Suppose there was a Hindu-Mohammedan riot ; suppose a Mohammedan was brought up before a panchayat for an offence which is triable by the panchayat; suppose one Hindu member of the panchayat thought that there was justice on the side of the Mohammedan. Does the Honourable Minister and does the House think that this gentleman, who may have to submit himself to an election within the course of a few months or a year, will think that he ought to do justice

to the Mohammedan rather than keep his seat ? What will he do ?

Dewan Bahadur D. R. Patil: A riot case is not triable by a panchayat.

Dr. B. R. Ambedkar : I am giving it as an example ; it may be for some other offence.

Sir, I have never seen anywhere a judiciary that is elected. The only country where we know that the judiciary is elected is America, and you know that it has brought judges into disrepute in all the American Commonwealth and has small justice a by-word for corruption. I am sure my honourable friend does not want us to have that experiment tried on us. In view of this, I must say at once, as I do not wish to trespass too much upon the time of the House, that I cannot accept the principle embodied in the second part of the Bill, that judicial powers, both civil and criminal, should be handed over to a panchayat, which, in substance, is an elective judiciary. Sir, I am bound to say, watching as I have been the affairs that are going on in this presidency and especially what is happening to the depressed classes, that so far as we are concerned we can never consent to judicial affairs being administered by a panchayat. Ours is a very peculiar and, if I may say so, a very pitiable position. We are a small body of people, occupying a corner of a village. We are never looked upon as part and parcel of the village community. Although living in the village, we are all the same an alien body, whose progress is looked upon with great jealousy by the rest of the community. My honourable friend Mr. Kamat shakes his head, and therefore I think I must read to him from the report of the State Committee, which I did not want to do. In paragraph 102 of that Committee's report, the condition of the depressed classes in the village is described at great length. This is what the Committee say :

" Although we have recommended various remedies to secure to the Depressed Classes their rights to all public utilities, we fear that there will be difficulties in the way of their exercising them for a long time to come. The first difficulty is the fear of open violence against them by the orthodox classes. It must be noted that the Depressed Classes form a small minority in every village, opposed to which is a great majority of the orthodox who are bent on protecting their interests and dignity from any supposed invasion by the Depressed Classes at any cost. The danger of prosecution by the Police has put a limitation upon the use of violence by the orthodox classes and consequently such cases are rare.

" The second difficulty arises from the economic position in which the Depressed Classes are found today. The Depressed Classes have no economic independence in most parts of the Presidency. Some cultivate the lands of the orthodox classes as their tenants at will. Others live on their earnings as farm labourers employed by the orthodox classes and the rest

subsist on the food or grain given to them by the orthodox classes in lieu of service rendered to them as village servants. We have heard of numerous instances where the orthodox classes have used their economic power as a weapon against those Depressed Classes in their villages, when the latter have dared to exercise their rights, and have evicted them from their land, and stopped their employment and discontinued their remuneration as village servants. This boycott is often planned on such an extensive scale as to include the prevention of the Depressed Classes from using the commonly used paths and the stoppage of sale of the necessaries of life by the village Bania. According to the evidence sometimes small causes suffice for the proclamation of a social boycott against the Depressed Classes. Frequently it follows on the exercise by the Depressed Classes of their right to the use of the common well, but cases have been by no means rare where a stringent boycott has been proclaimed simply because a Depressed Class man has put on the sacred thread, has bought a piece of land, has put on good clothes or ornaments, or has carried a marriage procession with a bridegroom on the horse through the public street." That Sir, is our position. We are a besieged people, so to say, and I cannot allow, and I cannot consent to so much judicial power, both civil and criminal to be handed over to a people who are perpetually in an organised conspiracy to defeat our aims and objects.

An Honourable Member : No, no.

Dr. B. R. Ambedkar: I perfectly sympathise with the Honourable Minister's underlying purpose. If I have understood him correctly, all that he wants is that the villagers should get justice cheaply, and it should be more easily accessible to them. I believe that is the underlying motive he has for the judicial provisions he has made in his Bill. If that is so, then I think that there is a better method of doing that. It is not necessary to give the judicial powers to the village panchayats. We have already in existence what are called honorary bench magistrates in towns. It should be perfectly possible to extend that system whereby we can divide each district into judicial circles extending over an area of two or three miles suited to convenience, and for Government to nominate—
1 emphasise the word "nominate"—three or more persons to discharge the judicial functions in that circle. These three gentlemen would on one day sit as magistrates to deal with criminal cases and on another day they will sit as civil judges to try civil cases. By this method, you will secure cheap justice, easy justice, at the same time you will secure a judiciary that will be independent of local influence, a judiciary that will be free from the disadvantages of an elective system. I think, Sir, this ought to satisfy the requirements of the case. At any rate, I have to make it plain that, if the Honourable Minister insists that the Bill be put through as it is with all the provisions in it, especially those provisions

which he regards as matters of principles, I must say that I shall oppose this Bill. (Applause.)

22

ON VILLAGE PANCHAYATS BILL : 2

NOMINATION OF DEPRESSED CLASSES ON PANCHAYAT

Dr. B. R. Ambedkar : Mr. President, I must congratulate the Honourable Minister in charge of this Bill for having brought this amendment, belated as it is, which seeks to do some justice to the two great minorities of this province. Grateful as I am to the Minister I feel I must support the amendment of my honourable friend Mr. Mitha. I do not know what has passed on the floor of this House before I came in between the Honourable Minister for Local Self-Government and my honourable friends who are sitting on the front opposition bench. But I understand that they have no objection to the amendment as worded by the Honourable Minister for Local Self-Government that if the amendment stood in the terms in which he had proposed it, the opposition, without much lament would accept it.

Now Sir, if that is the position, then I do not understand what difficulty can the honourable members of the opposition have in order to accept the amendment proposed by my honourable friend Mr. Mitha. Sir, as I understand the position of the Honourable Minister and my friend Mr. Mitha the difference seems to me to be of a very minor character. The Honourable Minister for Local Self-Government has stated his amendment in general terms. He wants to impose an obligation upon the Collector in the matter of exercising his discretion in making provision for the appointment to the village bench of members of minority communities. That obligation he chooses to state in the general terms in the name of minorities whoever they may be. My honourable friend Mr. Mitha has gone a step further and stated that in doing so, the Collector should specifically bear in mind the Mohammedans and the Depressed Classes. Sir, I do not understand why the Honourable members who accept the amendment in general terms should object to the particularisation of that amendment. Do they think or do they not think there are minorities in this province, and the Honourable Minister's proviso is intended to safeguard the interests of these minorities ? If the minorities are there, then what is the harm if those minorities are specifically named in a clause ? If the general amendment is accepted that the minorities ought to be protected and if we, by our common knowledge of affairs in this Presidency, know that in every village if there are no other minorities, there are certainly the depressed classes and the Mohammedans. I do not quite understand what objection there can be if these particular minorities were mentioned in the clause itself. Either let us be honest and say

that we do not see why any such clause giving special rights and special protection is necessary, or admit that there are communities which need special protection, and, if we mean business, let us specify the community that needs protection.

Rao Bahadur G. K. Chitale : What is that protection ?

Dr. B. R. Ambedkar: There ought to be no halfway halting house if we are honest in meeting the situation as it is.

Sir, the last speaker, honourable member Rao Bahadur Chitale, urged two propositions. First of all, he said that in accepting the amendment proposed by my honourable friend Mr. Mitha we shall be disfiguring the statute. Well, Sir, I would like to remind my honourable friend that this is a cry which is too late. We shall have a constitution not for this province, nor for that province, but a constitution for every province, a constitution for the whole of India, which will have recognised this principle in as clear terms as we can think of.

Honourable Members : " Hear ! "

Dr. B. R. Ambedkar : It is too late. The plea which has been urged by my honourable friend in this House is a plea which has been urged by many stalwarts in the Round Table Conference, and we know, Sir, that they all came to grief, not only they came to grief but they almost ended in wrecking the constitution. If I may speak from personal experience, if there is anything that brought disaster on the Round Table Conference, it is the academic attitude of these stalwarts.

Sir, India is not Europe. England is not India. England does not know caste system. We do. Consequently the political arrangement that may suit England can never suit us. Let us recognise that fact. And I would go one step further, Sir in saying that, whatever other students of Indian politics may say, I maintain the proposition that if there is any good in the Indian Constitution that is going to come, it is the recognition of the principle of communal representation.

Honourable Members : " Hear, hear ! "

Dr. B. R. Ambedkar: I am not ashamed of what I am saying. I know, and I am saying, that it is going to be one of the best parts of the Indian Constitution. We do not want, I do not want, the mere right to go to the ballot box and not knowing who is my representative, or if there is going to be any representative to represent me at all. I want a system in which not only I will have a right to go to the ballot box, but I will have a right to have a body of people belonging to my own class who will be inside the House, not only discuss matters but take part in deciding issues. I say, therefore, that communal representation is not a vicious thing, it is not a poison, it is the best arrangement that can be made for the safety and security of the different classes in this country. I do not call it a disfiguring of the constitution. I call it..

Dr. M. K. Dixit: Decoration.

Dr. B. R. Ambedkar: Yes, decoration of the constitution. Then my honourable friend asks, should we admit this principle in the judiciary ? Well, if my honourable friend can assure me that the existing judiciary is not without its communal bias, that, the Brahmin judge, when he sits to adjudicate upon issues between a Brahmin defendant and a Brahmin plaintiff, he decides as a mere judge I perhaps would be inclined to consider his proposition favourably. But I know what sort of judiciary we have. If my honourable friend and if this House had the patience, I could reel off heaps of stories where I know to my knowledge that the judiciary has abused and prostituted its position.

(Honourable Members Oh ! Oh !)

It is because we are not certain that what they call the village folk, the folk who are bound together by ties of blood, by ties of kith and kin, will not make a conspiracy to utilise the political and judicial power that they will get to put down the other classes that we want this provision. Sir, I have no doubt at all that this is one of the best provisions that we can have in the constitution, and I whole heartedly support the amendment of my honourable friend Mr. Mitha.

* * * *

Rao Bahadur R. R. Kale : Then Sir, I do object to the remarks of my honourable friend Dr. Ambedkar with regard to the judiciary of this presidency. It pained me certainly to hear him say that he questioned the *bona fides* and straightforwardness of our judiciary, which has been proclaimed even by the Privy Council to be second to none, when matters went to that Tribunal It has been held by the highest tribunal in the land, namely, the Privy Council in its judgements from time to time, as being the best judiciary in the whole of the World.

An Honourable Member : In the whole world ?

Rao Bahadur R. R. Kale: Yes, in the whole world. My point is that it is certainly a serious slander to say that the judiciary is influenced by communal considerations. It pained me very much when I heard my honourable friend Dr. Ambedkar say " I know what sort of a judiciary we have, they are guided by communal considerations in disposing of cases.

Moulavi Sir Rafiuddin Ahmed: By whom is it uttered ?

Rao Bahadur R. R. Kale: By the Honourable member Dr. Ambedkar.

Moulavi Sir Rafiuddin Ahmed: Your brother-in-law, and a Hindu.

Rao Bahadur R. R. Kale: What do you mean by "brother-in-law" ? He may be even my father or my son. I certainly would detest such an accusation coming from any one in this House. He may be my brother-in-law, or my father, or my son. I say I do not care. I do really feel for such an aspersion being thrown on the whole body of the judiciary in this privileged place, when they are not here

to defend themselves. I do not know what judicial experience my honourable friend Dr. Ambedkar has. He may have some experience, but over 40 years' experience stands to my credit, and I can and do say that from the lowest to the highest tribunal, including the High Court, including the sub-courts, I have not been able to come across any communal bias in the decision of a case when the case comes before a judge. Therefore, I do demur to the proposition put forward by my honourable friend. I can understand the mentality of men of Dr. Ambedkar's persuasion—why they want even on the village bench a particular community to be represented. That shows their mental attitude.

Mr. L. R. Gokhale (Poona City): The honourable member Dr. Ambedkar was here and I am sorry he has gone I am surprised to find that the honourable members on the opposite benches who belong to the judiciary did not speak a word of protest when the sub-judges are maligned to their very face in this Honourable House.

Mr. B. S. Kamat: Before I come to his point, Sir, I must say that whether his services on this afternoon were requisitioned for a specific purpose for the occasion, or whether it was by a very happy coincidence that he came in this House,—I am not concerned which was the fact,—I do think that, taking Parliamentary practice as it is, it is not fair for a speaker to disappear from the House, to fit across like a comet from the horizon without listening to the other side of the House. This is entirely contrary to Parliamentary etiquette and unsportsman-like in spirit

Saturday, 11th February, 1933

Rao Bahadur G. K. Chitale (Ahmadnagar District): (While raising a point of order) Sir, yesterday's attack of my Honourable friend Dr. Ambedkar on the Brahmin judiciary as a class is an instance which I have not yet met within any of these Councils though they have been exercising those rights for about 12 years. Under these circumstances, if it is open to slander a class, I should think that this side—the other side may note—it will make it a point to launch an attack on individual officers coming out of the minorities. I should therefore think, Sir, that an authoritative ruling is absolutely necessary in this respect because I was really pained to see the treasury benches or the Government benches, in whose hands the honour of their own servants is concerned, were mute absolutely.

The Honourable Mr. R. D. Bell: Sir, Before therefore, the discussion goes any further, if there is to be any discussion, I think the House should know the exact words which the honourable member Dr. Ambedkar said.

Moulavi Sir Rafiuddin Ahmed: Sir, as this discussion will have a bearing on the presence of the honourable member Dr. Ambedkar, if this debate takes

place when he is present here, that would be very relevant.

The Honourable the President: The suggestion made by the honourable member Sir Rafiuddin Ahmed cannot be accepted and the House cannot wait till the honourable member Dr. Ambedkar is in the House, which is very uncertain factor. So that cannot be; but in the meanwhile I think it would be preferable that we should go by the exact words of the speech and then the House will be in a better position to decide one way or the other. Reads, “ what is reported to have said yesterday”.

The Honourable Mr. R. D. Bell: Mr. President, it must be the case that the Honourable Member Dr. Ambedkar has not yet seen the typescript of his speech and therefore fully share the regret expressed by the honourable member Mr. Kamat and yourself that he was present neither yesterday nor this morning in order to give himself, in fairness to himself the opportunity of explaining these words.

Then he defends how ' the Government have full and complete confidence in the Judiciary.'

The Honourable the President : I am glad that the Honourable the Home Member has made the statement. After the fullest statement made by the Honourable the Home Member the House has nothing further to take cognisance of.

I now add that it is certainly very objectionable and unparliamentary and unfair to any Department or service. I personally believe that honourable members who have the command of language, or believe that they have the gift of delivery may, in the flourish of the moment, go very much further than they should go, and regret afterwards at leisure. As the Honourable the Home Member pointed out evidently the honourable Member Dr. Ambedkar has not read the transcript of his statement yet. If he reads it, he would, I am sure feel, or ought to feel, as the whole House does. I myself would warn honourable members of this House that it is highly unparliamentary to make a general condemnation, a wholesale of a highly respected service like the judiciary. I think the honourable member was wrong, and the point raised will be of considerable utility to the House for its guidance in future. I share the opinions expressed both on the Government side and the other side of the House (Applause).

23

ON VILLAGE PANCHAYATS BILL : 3

STATEMENT BY DR. AMBEDKAR RE : HIS SPEECH

Dr. B. R. Ambedkar : Mr. President, I crave your permission to offer my explanation with regard to the point of order that was raised by my Honourable

friend Rao Bahadur Chitale on Saturday last as to the propriety of certain remarks that were alleged to have been made by me in the course of my speech on Friday last in connection with the amendment moved by my honourable friend Mr. Mitha. Sir, I was very anxious to offer this explanation on Saturday when the point was raised. But I could not obtain from the office, copies of the transcript of my speech and the statements made by honourable members in connection with the point of order. I was told by the office that it would not be possible for them to hand over the transcript to me before the Council rose. Consequently I was obliged to postpone my explanation till this hour.

I regret very much that this point of order should have been raised without first ascertaining whether I accepted the transcript as a correct record of what I said. It is one of the elementary principles of justice, I submit. Sir, in all humility, that no conclusion should be drawn, unless the facts on which it is going to be founded, are first ascertained. I am sorry I was not allowed the benefit of this rule. It was stated, on the basis of the argument urged by my honourable friend Mr. Kamat, that I was not entitled to this courtesy on the ground that my sudden departure on Friday, after making a speech, was a violation of the rules of Parliamentary etiquette. With regard to the rules of etiquette one must ever be ready to learn from the honourable member Mr. Kamat who as we all know belongs to that most ancient and honourable order of Indian politicians, the Liberals, and who has grown grey in Parliamentary life. In this particular case, I venture to say that the rule of etiquette relied upon cannot apply. If I have understood the rule correctly, it lays down that a member should not leave the House after his speech but should wait to hear the reply and it applies only when the member has in the course of his speech attacked another member of the House individually and personally. It does not extend in my opinion, to a case where a member has urged general arguments based on generally known facts. So extended, I submit. Sir, that the rule would require that every member who has taken part in the debate must continue to be present at all times till the question is put and listen to every speech in the debate. I had not questioned the honourable member Mr. Kamat, or for the matter of that, any other honourable member of the House and as I had nothing to hear in reply I did not feel bound to sit, because I had an important engagement to fulfil. Another reason why I was not allowed the benefit of the rule of not condemning without hearing was that I was not a full-time member and that no body would be certain when I would be present. I bow to the opinion expressed therein. I must confess perhaps that I am more regular in my irregularity in attendance, although measured in terms of utility I do say that whatever work I have been able to do as a member of this House either inside or outside it will not fall

below parity. Whether I am regular or irregular, that is not the point. The point is, in my opinion, why did not the honourable member raise the issue immediately while I was speaking ? If I understand the procedure correctly for raising a point of order, the procedure must be that a member who wants to complain must draw the attention of the President at the moment when the alleged violation of the order occurs. It is therefore strange to my mind that the aggrieved party should do nothing at the moment, sleep over the night, give vent to his grievances the next morning without notice, and then complain that the delinquent is not present in the box. A fair and correct procedure for the honourable member was to have immediately raised the point of order just when I was speaking or in fairness he was bound to give notice.

With regard to the substance of the point of order, I must state at once that I do not accept the transcript as a correct record of what I said. The transcript as it stands reads as if I was accusing the whole judiciary wholesale, which certainly was not my intention nor my purpose. The transcript reads—

"The Brahmin Judge, when he sits to adjudicate upon issues between a Brahmin plaintiff and a Brahmin defendant, he decides as a mere Judge" etc.

This is incorrect, I was not referring to the case in which the Brahmins were parties to a dispute. I was referring to the cases in which the parties were Brahmins and non-Brahmins. Again the words " without a communal bias " after the words " decides as a mere judge " are left out. Secondly, my important words of limitation have been left out from the sentence—

" The judiciary has abused and prostituted its position." What I said was that the judiciary has in such matters abused and prostituted its position. From these corrections it would be evident that I had no intention to pass any censure on the judiciary enbloc, nor did I intend to pass judgement on its conduct wholesale. Secondly I had no intention to pass any adverse remarks on Brahmins as such in the judicial service. Indeed, I go further and say that, when I referred to the Brahmin judiciary, it was not with a view to single them out for special condemnation. I was dealing with the issue generally and I used the Brahmins by way of illustration. That is evident from the fact that in the last of my speech, I speak of the judiciary in general without particularising any single element in its composition. What is therefore important is for the purpose of the argument I was making, it was quite unnecessary for me to condemn the judiciary as a whole or to single out any particular element in it for special notice. I was replying to the point raised by the honourable member Rao Bahadur Chitale whether the judiciary has or has not communal bias. My reply to him was that as a consequence of the social system we were living under communal bias was a necessary consequence, I spoke of the Brahmin judge by way of illustration, because I was replying to an opponent who happened to

be a Brahmin. If my opponent was a non-Brahmin or a Mohammedan, I would not have hesitated to refer to them. I do not know, Sir, whether you think that a statement alleging that the judiciary exhibits communal bias in communal cases is an unfair statement. I leave it to you and this House. All that I would say is that it is a premise which is recognised even by the Criminal Procedure Code. We have a section in the Criminal Procedure Code which permits parties to ask for a transfer on the ground that the judge has bias. We have a provision in the Criminal Procedure Code which prohibits a judge from entertaining a case in which he has interest. Secondly, this view, namely, that the judiciary has bias, may exhibit a communal bias in the issues of a communal character is recognised in the Bill itself. Most of the honourable members will remember that the Bill was originally based on the principle that the whole of the village bench should be the elected panchayat. It was in the course of the first reading I urged that it was not a proper principle to base the constitution of a judiciary and in response to that I believe a change was made in that part of the judiciary should be nominated. I regard that, Sir, as an evidence of the fact that communal bias is there. Lastly even the honourable member who raised the point of order seems to recognise what I am saying in his speech on the point of order. He threatened the Honourable the Home Member in these ominous words : " If the Honourable Home Member did not repudiate me," the honourable member would make it a point to launch an attack on individual officers coming out of the minority communities— a performance which he could not enact, unless he was certain of the existence of the facts I have referred to. The thing that pained my honourable friend is not the point I was making but the particular illustration I gave. If I had illustrated my point by citing a Mussalman or a non-Brahmin, the point of order would not have been raised. Probably I would have been lavishly praised. That is all I have to say.

After the statement on 13th February 1933 by Dr. Ambedkar, the Honourable the President explained the criticism in Ambedkar's speech, discussed etiquettes in the Council, the merits of the speech, and concluded:—

"I have nothing further to say. The explanation given by the honourable member must be accepted, that it was not a general condemnation of the whole of the judiciary that he meant, but that it was an attempt to point out that there were instances in which communal bias had appeared in judicial courts also."

24

ON VILLAGE PANCHAYATS BILL : 4

Dr. B. R. Ambedkar: Sir, may I have a word of explanation ? I have not followed what you said. I understood you to say that at the third reading of a Bill

an honourable member could not oppose the Bill on a point, if that point was not taken or if he was defeated on that point at the second reading. Am I correct ? If a point was not taken at the second reading, or if on a particular issue, at the second reading, a particular member or a minority was defeated in this House, the same minority could not oppose the third reading of the Bill on the same point. Is that it, Sir ?

The Honourable the President : No, no. The honourable member was not here when I gave my ruling when for the first time the occasion arose some days ago in this session. I shall repeat it for his benefit. The honourable member, as a constitutional lawyer, knows very well that there are three readings given to a Bill. There is the first stage of the Bill, namely, the first reading, when the principles of the Bill are discussed. After that, if the Bill is referred to a select committee, the House is in a position to criticise the Bill as it emerges out of the select committee, or if it is not referred to a select committee, at the second reading when the Bill is taken up clause by clause, changes are made. All those steps that honourable members have got to take they can take at the second reading. Now there may be other honourable members like the honourable member himself. He was not present perhaps throughout the second reading of this Bill. He now comes at the third reading. He can oppose the Bill if the features of the Bill as it passed from the first reading to the second reading have been changed at the clause by clause reading stage and he takes objection to it. Then he can oppose the third reading at the third stage, pointing to certain features which have come into existence at the second reading which are objectionable to him. That is all. Otherwise, the three stages would lose their significance. At the close of each stage, when the question is put, honourable members who are opposed to the measure can oppose it at every stage, provided they confine themselves at the first reading to the principles, at the second reading to the details, and at the third reading to the changes in the various aspects of the Bill which have been made since and which are objectionable. That is my ruling, I do not prevent any honourable member from opposing the third reading. For instance, there was the honourable member Rao Saheb Kulkarni. He had tabled several amendments which were defeated, and he has opposed the third reading on those very grounds again. He said that he opposed the Bill because it does not go far enough, that he had tabled amendments which were defeated or not taken into consideration, and that he now, at the third reading, opposed it because it is not quite satisfactory from his point of view. Similarly, any honourable member, whether he has tabled any amendments or not, can oppose it at the third reading, but he must confine himself to the changes made or not made in the second reading, and not go back to the first reading and

evoke the same discussion over again as regards the general principles, for which the proper time was the first reading stage.

Dr. B. R. Ambedkar: I suppose, Sir, your remarks are confined to the use of the arguments, and not the points. I shall put it in a different manner. Suppose, for instance, I take my own case. I oppose the Bill on certain principles. I say that the principles on which this Bill is based are wrong, and that the House by a majority carried the Bill is against me and against those honourable members who share my views. Am I not entitled to oppose the third reading of this Bill because the Bill retains the principles which I opposed at the first reading ?

The Honourable the President: No, that is my ruling. The honourable member cannot do it, and he would not be within his rights to do it, because he had opportunity to do that before the third reading.

Dr. B. R. Ambedkar: Going a bit further, suppose I was also defeated at the second reading of the Bill, and the House still carried the Bill with the original principles embodied in it, would I not be entitled to oppose the third reading of the Bill, on the ground that the provisions to which I am opposed are still retained in the Bill ?

The Honourable the President: No, I will stick to my ruling. He cannot do it, because he had his views laid before the House and the majority decided against him. We are now at the stage of the third reading. Otherwise, the three stages would have no significance.

Dr. B. R. Ambedkar: After your ruling, Sir, the only thing for the minorities who have opposed the Bill at all stages is to vote against it. Otherwise, it would be that if the majority decided that it was a good thing and the minority opposed it, the minority would have no opportunity of recording its objection.

The Honourable the President: That is perfectly right. The minority is entitled to vote against the third reading of the Bill. They can go to a division and record their vote against it. But to raise a debate on matters which have been decided at the first reading would be wrong.

Dr. B. R. Ambedkar: Exactly, Sir. Your proposition does not lead to the conclusion that our rights are debarred.

The Honourable the President: No, that is right.

Dr. B. R. Ambedkar (Bombay City): Mr. Speaker, having signed the Poona Pact, I am, of course, entirely out of court in discussing the subject of separate electorates. Therefore, I am not going into that part of the Bill which deals with the method of representation to be devised for the different minorities for which

provision is made in this Bill. Perhaps, it will be justifiable for me if I mention from what angle of vision I look at this very thorny question of joint versus separate electorates. Sir, the way I look at it is this. What is to be the effect of joint electorates, supposing: that it was introduced for the different minorities ? What will happen, as I see, is this. One day in five years when the elections will come, a Hindu: and a Mohammedan may go together to a common polling booth. I do not see what else can happen, as a result of joint electorates. (Interruption). Please allow me to go into the rest of the five years. When there are no elections, the Mohammedan community—1 am taking that as an illustration— will believe in a separate life, a compartmental life to itself. I do not see that, as a result of joint electorates, the Mohammedans and the Hindus will come to live together in the same chawl. I do not see, as a result of joint electorates, that Mohammedans and Hindus will begin to inter-marry. I do not see, as a result of joint electorates, Hindus and Mohammedans will inter-dine. Sir, I take this opportunity to say deliberately that, if we want to build up unity, it is not by devising a day, however sacred that day may be, when both Hindus and Mohammedans will come to the same polling booth. If we want really to devise some means to build up unity, what we should do is to break up the social barrier. I say that in this matter the lead has to be taken up by the Hindu community, because they are a very exclusive community. If other communities live a separate life, it is because the Hindu community regards certain interests as its own interests and the fault is entirely due to the Hindu community. I say, therefore, deliberately that there is no use playing with this problem by putting forth a scheme which is ineffectual and which will have no operation except for one day which may come in the course of five years or three years. There is no use ; and nothing will happen as a result of this. You may try it. I request my Mohammedan friends to grant them this opportunity and see if any particular protection will give an opportunity for the two communities not to remain apart. I cannot hold a brief for separate electorates having signed the Poona Pact.

I will turn now to the other aspects of the Bill and begin by saying that the Bill, so far as it goes, certainly marks a stage in advance from where we are standing. But there is nothing which I find in the Bill itself. It is an empty shell. It contains nothing. But for the speech of the Honourable Minister giving what be proposed to do with regard to the reorganisation of local bodies, we would certainly have known nothing from the Bill as it is. All that the Bill says is that the Government will be given the power to make rules for this and for that. Beyond that, what is there in the Bill ? If the statement of objects and reasons was not attached to this Bill, we would not have even known what was the principle Government were going to adopt in providing for representation of the different minorities. I say it deliberately that the questions are constitutional

questions. It is not a question of carrying ordinary legislation into effect where it has been the practice now, almost sanctified, that Government should be allowed to carry out the policy by rules. We are delegating part of our authority to Government to do something. We are delegating part of our taxing power to them. We are delegating to them the authority of making elective representation. I submit most deliberately that it is a constitutional question and as such ought to be settled in all its details in this House and ought not to be left to the sweet will of the executive. Take the example of the Government of India Act. What does this Bill deal with ? This Bill deals with franchise, deals with the communities that are to get representation, deals with constituencies and deals with the method of voting. Look at the Government of India Act. What does it do ? Has it left the number of seats to the minorities to the sweet will of the executive ? Has it left the question of dividing constituencies to the sweet will of the executive ? Has it left the method of voting to the sweet will of the executive ? Nothing of the kind. All that has been done by Orders in Council which are as much part of the Government of India Act as the Government of India Act itself. It is necessary that we should do things in the way in which constitutional things are required to be done. This is my first submission with regard to this Bill. As regards other matters, the first thing I should like to know from the

Honourable Minister in charge of the Bill is this. He has very graciously said in the statement of objects and reasons that the principle which he wishes to follow in allotting seats for the different minorities is the principle of population. I am grateful to him for that But I do want to ask him that, if that is the principle on which he proposes to allot seats for the different minorities, why he should not embody the principle in the section itself. What guarantee is there that we will get the benefit of the principle stated in the statement of objects and reasons ? We do not want charity. We want our rights which we do not want to leave to the sweet will of the executive. We want it to be definitely laid down by law. The second thing with which we are materially concerned is the question of system of constituency. I am most concerned about my honourable friend who could not come in as an M.L.A. I want to know what the system of constituency is in the matter of constitution of these boards. Is it to be a single member constituency or is it to be a plural member constituency ? Nothing is stated even in the statement of objects and reasons. Why is that ? If the executive wishes that hereafter they should adopt the system of single member constituency, then we ought to know, because that would decide whether we are to vote for this Bill or vote against it. That has not been done.

The third thing with which I am most concerned is the question of voting system. Is the voting system to be cumulative system of voting or is it to be

distributive system of voting ? That again has not been made clear. I like all these matters to be made clear and definite on the floor of the House. I hope the Honourable Minister will reply to all the queries I have made and embody those principles I have mentioned in the Bill itself, so that we may know what our rights are. In this Bill everything is sought to be done by rules, but the Honourable Minister does not even propose to place these rules on the floor of the House, so that the House may know what exactly the executive has done. That is the least bit that can be done with regard to this Bill. I do not want to repeat what I have already stated. I regard it as solely and purely a constitutional question. It is a question of according a constitution for the local authority which is endowed with legal authority to do certain things, even to penalise the people by tax. Surely, before we can give these powers to the executive, the executive should agree to place on the floor of this House what they have done by way of using the powers which they ask us to confer upon them. I content myself with these remarks at this stage.

26

ON LOCAL BOARDS ACT AMENDMENT BILL : 2

Dr. B. R. Ambedkar : Sir, I would like to ask whether the mover of the amendment has voted in this division, if you can tell from the report that has been submitted to you ?

The Honourable Mr. B. G. Kher: May I know whether it is the right of any honourable member to know in what particular way a person has voted ?

Dr. B. R. Ambedkar: The reason why divisions are called is because not only the House but the public at large should know how members have voted.

The Honourable the Speaker: I cannot be expected to read the list of all members who have voted, just for the information of one honourable member.

Dr. B. R. Ambedkar : This House is entitled to know on which side the honourable mover of the amendment has voted, because I think I may say that the House is entitled to know whether any particular member has abused the process of this House.

The Honourable the Speaker: I think that, in the light of what has fallen from the honourable member Dr. Ambedkar, before I give out the name, I must clarify the position and it is this; that the mover of the amendment, Mr. Phadake, moved his amendment from the point of view of abolition of separate electorates for the Mohammedan community. The same amendment was tabled by the honourable member Mr. Chundrigar with the object of doing away with the option which the Bill proposes to give to the Mohammedan community

keeping intact the separate electorates. So, in this particular instance what has happened is that though the amendments in form and wording, of both these honourable members have been the same, the object of each was different. It was only an accident that the honourable member Mr. Phadake's amendment came to be taken up for discussion and therefore the honourable member Mr. Chundrigar was not able to move his amendment. If the honourable member Mr. Chundrigar's amendment had been moved, the honourable member Mr. Phadake's -amendment would not have been moved, and perhaps the difficulty which the honourable member Mr. Phadake might be deemed to have been placed in at present, might have been felt by the honourable member Mr. Chundrigar. So, with this explanation, I think I shall say, on referring to the division list, whether the honourable member Mr. Phadake has voted at all and, if so, whether he has voted for the Ayes or for the Noes.

Mr. Ismail I. Chundrigar: May I clear a possible misunderstanding, Sir ? It is not correct to say that I did not move my amendment. As a matter of fact, Sir, you ruled that it was not necessary for me to move my amendment as an amendment in the same words was already moved by the honourable member Mr. Phadake.

The Honourable the Speaker: I did not intend to say that the honourable member Mr. Chundrigar declined to move or that he was not anxious to move his amendment. Not that. He was anxious to move; but it has been the practice in this House that when the same motion is moved by a number of members, only one moves it for the sake of convenience; not that Mr. Chundrigar declined to move it.

Now, I find that the honourable member Mr. Phadake, the mover of the amendment, I again repeat, with the object of the abolition of separate electorates, and having found that his first amendment was lost and that separate electorates do continue, has voted against the amendment.

Dr. B. R. Ambedkar: I would like to ask one more question and ask your ruling in the matter, whether it is open to a member of the House, who has moved an amendment, to vote against it.

The Honourable the Speaker: I think the point to my mind is obvious. It is always open to a person to change his mind up to the last (Laughter).

* * * * *

Dr. B. R. Ambedkar (Bombay City): I am very sorry, but I think I cannot help saying that this is a matter on which the wishes of this group ought to have prevailed with Government. Nobody would have been hurt, the interests of the country would not have been injured if the amendment moved by my honourable friend Mr. Gaikwad had been accepted. In view of the fact that Government wishes to use its majority in a tyrannical manner, I am afraid we

must show our dissatisfaction by walking out in a body and not participating further in the day's proceedings.

The Honourable Mr. B. G. Kher: I hope the honourable member (Dr. Ambedkar) will give me an opportunity of saying a few words.

It is a very sad commentary that feeling in this country, where even the slightest question of caste or creed is concerned, is so very touchy. As the honourable the Leader of the Independent Labour Party knows, since a long time an attempt has been made to take away from currency in our language the words "Asprishya", because the very idea is a reminder of the most painful associations, of what has been universally now admitted to be a stain on Hinduism. I quite agree with the honourable member Mr. Gaikwad that by merely changing the name we will not achieve this object. The present section is an attempt in that direction. To remove the question of untouchability. We tried an alternative expression; we wanted to say " Parishishta Varga ". But " Parishishta Varga " is the translation of the English expression " Scheduled class ", and we thought that " Parishista Varga " would be a very inappropriate expression to introduce into the Marathi language. If instead of using the English expression " Scheduled Classes ", we wanted to have a synonym for that expression, we had to accept this expression " Parishishta Varga " as the only alternative to denote what class was meant. I can quite understand, feeling as they do, that they do not like any attempt to differentiate them from the rest of the Hindus, but even for the purpose of legislation, to achieve this result even for bettering the condition of this class, we have to designate them as apart from the other Hindus—we may call them Asprishya or by any other name, and the fewer the expressions we use to differentiate and classify as different such a large body of Hindus the better; but I know that since the last 4 or 5 years the word " Harijan " has now gained a currency in the whole if not in the whole of the country, at least in many parts of the country. This is an attempt to substitute a word for the expression " scheduled class " which ought to have met with the approval of the honourable member, the Leader of the Independent Labour Party. It is extremely unfortunate that he does not look at this question in that light, but if he suggests as alternative which is suitable for the expression " scheduled class ", I do expect it will be possible to spare his feelings. In the alternative, I do appeal to him, at any rate, to read into this section no desire to hurt the feelings of a large class of people, who are unfortunately known as " untouchables ", but merely a desire to recognise an expression which has, for such a long time, gained currency would appeal to him not to see in the word " Harijan " and in the definition, an attempt to cast any reflection on his community.

Dr. B. R. Ambedkar : Sir, as you have ruled that this is not an occasion for

making speeches, I will not make any speech. All that I will say is this that I am not in a position to suggest any better name, but I must say that the name " Harijan " has now become practically equivalent to the term " Asprishya "; beyond that there is nothing remaining in that name, and I would think that if the Honourable the Prime Minister had felt in the same way in which we feel that the word " Harijan " has now become identical with the expression " scheduled class " then it was his duty, for the moment, to have withdrawn that word, and later on he could have discussed the matter with us with a view to find out some alternative term. His arguments, however, have not carried any conviction to us. I will, therefore, leave the Hall.

(Dr. B. R. Ambedkar and other members of the Independent Labour Party then walked out of the House.)

27

ON SMALL HOLDERS' RELIEF BILL : 1

Dr. B. R. Ambedkar: Sir, I am afraid whether I shall be able to finish all that I have to say on this bill within the ten minutes allotted to me by you. However I will try my best and will be very brief.

This bill proposes to solve the two problems which affect the agriculturists of this presidency. One is the problem of scattered farms and other is the problem of small farms. I do not think that any honourable member who has listened to the speech of my honourable friend the Settlement Commissioner will deny that the scattered farms are an evil and that that evil should be cured as far as possible. I agree with him that there are a great many disadvantages in having scattered farms and so far that part of the bill is concerned I agree that there should be consolidation. Coming to the question of small farms I must say that I differ from the honourable mover of the bill on the question that small farms are unprofitable. Sir, the honourable member Mr. Anderson loaded us almost with figures showing how small the existing farms were and what were the difficulties that were dependent upon the smallness of the farms. I admit there are difficulties in *the* existence of small farms but I do not admit that small farms are necessarily unprofitable or uneconomic. I do not understand what is the definition of the word " uneconomic " as it is used by the honourable mover of the bill or the honourable member the Settlement Commissioner. Sir, as I understand the term I should like to state that whether the farm is economic or uneconomic does not necessarily depend upon the size of the farm. It depends and in fact it varies with what we call in economics other factors of production. It varies with labour. It varies with capital. If a farmer has got for instance the means to employ increased labour and if he has not got any very large capital

to invest then I submit that if this farm is small it would not be proper to call it uneconomic on that account. That being my position. Sir, I would have very much liked to hear from the mover of the bill and also, from the Settlement Commissioner that in our country we have a plethora of capital and that we had large agricultural equipment for a highly efficient sort of production. If they had shown that was the case then we could have agreed with them that the small farms made production uneconomic in so far as they prevented the utilization of the equipment we had to the best advantage. But, Sir, I must confess that the honourable member the Settlement Commissioner has altogether omitted to touch that point. I should have liked to hear from him that the farmer had an enormous amount of capital, that they had ploughs and cattles in large numbers and that they could not employ all that because their farms were too small. So far as I have been able to work out the problem I find that instead of the capital available at the disposal of the farmer being very large and being for instance wasted because his holdings were small, the situation is just the opposite of what we are led to believe. I find, Sir, in the Madras Presidency we have for instance one plough for three acres ; in the Bombay Presidency we have one plough for 6 acres. In the Punjab there is one plough for every two acres. I am reading from the official figures. These are the figures regarding the capital equipment of the farmer and taking the position which I am taking namely that whether a particular farm is economic or uneconomic is dependent not upon the size of the farm but upon whether it is commensurate with the capital which the farmer possesses, I am inclined to think that under the present circumstances it is better to further reduce the farms. That will be my logical position and I am not afraid to face it. I do not therefore understand what is the use of enlarging the farms if, for instance, the farmer has not got the wherewithal to cultivate the land. I do not understand how the increasing of the area of the soil to add anything to any produce if he has not got the necessary labour and capital to cultivate the land.

Then we have also got to remember one fact that ours is an agricultural country and that our soil is exhausted. We have been cultivating it for thousands of years and no matter what efforts we may take we cannot raise the productivity of our soil to the same level as for instance in America where the soil is virgin. We must reckon with that fact. That being so, Sir, the salvation lies not in increasing the size of farms, but in having intensive cultivation that is employing more capital and more labour on the farms such as we have. I therefore think, Sir, that that part of the bill which deals with the enlargement of the farms is altogether uncalled for. But assuming that these two things are necessary namely that we must consolidate our holdings and that we must also enlarge our farms I think it is necessary to look into the methods that are

proposed to be employed by this bill more carefully than has been done by the mover of the bill. Now, Sir, the methods which are chiefly employed in this bill are first, control of partition of the immovable property and, secondly, the sale of consolidated holdings. Now, Sir, I do not think that there can be any dispute on the point that if these two methods are adopted, a large part of our agricultural population will be landless, and I do not think that it is in the best interests of the country that the poorer classes should be further pauperised in this manner. Sir, I should like to point out that although the Hindu Law is very defective in many ways yet the Hindu law of inheritance has been one great saviour of the people. Sir, the social and religious autocracy established by the Hindu Dharma has kept a large mass of the people in perpetual thralldom. If their lot is tolerable under this thralldom it is because the Hindu law of inheritance has prevented the creation of plutocracy. Sir, we do not wish to add economic slavery to social thralldom. Let men be economically free if they are not socially free. I am therefore totally opposed to the abrogation of that just and equitable system of inheritance. At this stage I should like to make one humble suggestion to the honourable mover of this bill. I am prepared to give my support to the first reading of this bill provided he is not wedded to the method of consolidation and enlargement of holding as provided in the Bill. I think, Sir, the better method is to introduce co-operative agriculture for standard areas and to compel owners of small strips included therein to join in cultivation without destroying private ownership. If this is done, if some provision for this is made in the bill, then I would certainly support the bill. (Mr. F. G. H. Anderson indicated dissent). The honourable member Mr. Anderson, the Settlement Commissioner shakes his head. But I can tell the honourable member, that the method which I am suggesting is not my own, but is a system which is prevalent in Italy, in France, and is being followed in parts of England with great advantage. In this connection. Sir, I would earnestly suggest to the Honourable the Leader of the House to give his most careful consideration to what Mr. Otta Rothfeld says in his book; " Impressions of the Co-operative Movement in France and Italy." I would quote a paragraph from it here:

"As a whole the movement is one with vast potentialities. It has been imitated in France since the war, with good results and in Rumania a similar type of co-operation is almost revolutionising the husbandry of the country. It is possible that in co-operative cultivation in common, a solution might be discovered to those problems of Deccan poverty stricken unimproved cultivation which centre round the disputed issues of the "uneconomic holding " and " excessive sub-division of property."

Such a solution at any rate would avoid that revolutionary interference with traditional rights of succession that is so often recommended by light-hearted

reformers of non-farming classes and would not bring in its train those consequences in the way of limitation of families which may be anticipated if legislation interferes to disinherit younger children.

So, it will be seen. Sir, that such a system has been actually tried elsewhere and with success. I would conclude by saying that, if the Honourable the Leader of the House is prepared to consider all these suggestions carefully and will not object to any amendments that may be suggested in the select committee on the ground that they are of principle, and is not wedded to the method of consolidation and enlargement of holdings as proposed in the bill, then I have no objection to supporting the first reading of the bill.

28

ON SMALL HOLDERS' RELIEF BILL : 2
(Minute of Dissent)

Proceedings of the Council of the Governor of Bombay BY THE SECRETARY TO THE LEGISLATIVE COUNCIL OF THE GOVERNOR OF BOMBAY LEGISLATIVE COUNCIL OFFICE Council Hall, Poona, 10th July 1928

No. 894.—With reference to the footnote to the Report of the Select Committee on Bill No. XVI of 1927 (An Act to prevent the excessive subdivision of agricultural land and to promote the consolidation of such land) published at pages 34-49 of the *Bombay Government Gazette*, Part V, dated the 30th June 1928, it is notified that Dr. B. R. Ambedkar, M.L.C. has signed the report of the Select Committee subject to a minute of dissent shown below: (Minute of dissent by Dr. B. R. Ambedkar, M.L.C.)

1. Part I of this bill starts with the assumption that for the purposes of profitable cultivation it is necessary to have bigger farms than what we have now. I am not at all satisfied that this assumption is correct. But assuming that it is correct the main question every one shall be required to satisfy himself about before giving his assent to this part of the bill is "does the bill solve the problem of creating large farms out of the existing small farms in such manner that no serious objection can be raised to it ? "
2. The mechanism employed by the bill to maintain the standard unit once it is laid down in two-fold. First it severely penalises the owners of farms smaller than the standard so that ownership of a small farm shall to him become a burden instead of a benefit. Secondly it prohibits the ownership of small farms in that it provides that in future small farms shall not come into existence at all. As an instance of the latter one may refer to the

restrictions on partitions. It is therefore obvious that in the mechanism adopted by the bill the rights of ownership of people are at stake.

3. I object to this mechanism on three grounds. Firstly because it affects the rights of property. If the arrangement was state ownership and state management of lands the invasion of rights of property would not be a matter of such anxious concern. But the arrangement is such that there will be the aggrandisement of some landlords at the cost of the rest. There is no doubt in my mind that the effect of the mechanism adopted in the bill will be to reduce some land owning farmers into landless labourers. Just how many will find themselves in this predicament it is difficult to imagine. Everything will depend upon how large the standard farm will be. If the standard be much above the actual it will affect a large class than will be the case if the standard approximated the actual. The magnitude of displacement that will take place is an unknown quantity and will become known only when the standard becomes defined. But as majority of farmers are owners of small farms the fear is general. The opposition to the bill mainly arises from this fear and I am not prepared to say that the opposition is groundless. I cannot view with equanimity a prospect of such a revolutionary change in the economic basis of society.
4. The second ground of my objection to the mechanism of the bill is that it will be infructuous and will largely leave things as they are. The neighbouring owners of a small farm are given the right of pre-emption the object of which is to bring about a combination of contiguous small farms. But this right of pre-emption will come into operation only when the owner wants to sell and only when the neighbour is willing to accept the terms of the owner. The occasion for pre-emption may not arise ; for owner of small farm (I am referring to old fragments) may continue to hold it. On the other hand the occasion for pre-emption may arise but it may fail because no neighbour is able to accept the terms of the owner. In either case the existing small farms will continue indefinitely in spite of the desire to bring about the combination of small farms at an early date.
5. Apart from all this I think that the mechanism of Part-1 of the Bill overshoots the purpose which the bill has in view. The purpose of the bill is to have larger farms under single cultivation than is the case now. Now I feel that if we can combine small farms owned by different owners for cultivation we ought to stop there and not attempt to bring them under the ownership of a single individual unless it was proved that single ownership was necessary for combine cultivation. I am certain that the establishment of co-operative farms of standard size will give us all that we want under the bill and will save from destruction the small farm-owners. Under this

scheme the ownership of a farmer will remain intact, except to the extent that he shall not be at liberty to cultivate it unless he agrees to combine it with a contiguous farm or farms so that the total area so cultivated shall be equal to or exceed the standard unit. Such a covenant if it were made to run with the land will do away entirely with the necessity for the restrictions which the bill seeks to impose on transfers and partitions. For, whoever acquires the fragment he will not be able to disturb the arrangement for the cultivation of the co-operative farm. By reason of the covenant the transferee will be obliged to cultivate the farm in common. The co-operative farm will be like a shareholders' company in which the company remains even though the shareholders change. The scheme is simple in its operation and avoids the evils of the present bill.

6. I do not see what objection there can be to such a plan. As a matter of fact such a system is actually working in many European countries and particularly in Italy. But it is unnecessary to go so far afield to seek support for the scheme I have outlined above. I am fortunate enough to be able to say that the bill itself in part accepts the plan I have sketched above. A reference to clause 19 of the original bill which corresponds to clause 21 of the bill as amended by the Select Committee will show that no new fragment shall be cultivated unless it is combined with another contiguous farm. This I submit is nothing but the co-operative plan which I have suggested above. The only difference between myself and the Select Committee is that it restricts the co-operative plan to the new fragments; while I propose to apply it to all fragments. As between us I think I am right, when I say that it is for the Select Committee to justify why the plan satisfies the case of the one and not of that of the other. I see nothing to justify this distinction between the old and the new fragments.
7. For the reasons given above I cannot support Part I of the bill although I am not opposed to its aims and objects. Regarding Part II, I have no objection to raise, now that it is confined purely to consolidation. I may however say this that under my scheme separate provision for consolidation would be unnecessary. A co-operative farm would be both a large and a consolidated holding.

Dr. B. R. Ambedkar (Bombay City): Sir, I would like to ask one question, because I am finding some difficulty in understanding Rule 19. This is undoubtedly a matter which, in the first instance, has to be decided by the

Speaker as to whether a particular amendment or a particular Bill needs previous sanction. Clause (2) says that, if in the opinion of the Speaker, the matter requires previous sanction, the Speaker " shall as soon as may be after the receipt of the notice, refer the Bill or the amendment to the Governor and the notice shall not be placed on the list of business unless the Governor has indicated to the Speaker that the previous sanction required has been granted." Clause (3) deliberately states :

" If any question arises whether a Bill or amendment is or is not a Bill or amendment which cannot be introduced or moved save with previous sanction the question shall be referred to the authority which would have power to grant previous sanction if it were necessary, and the decision of that authority shall be final."

The question that is contemplated in clause (2) to arise is between the Speaker and the member who has given notice of an amendment or Bill. If the member who has given notice of an amendment or a Bill feels that his Bill or amendment does not require previous sanction clause (3) gives him the right to refer the matter to the final authority, the Governor. Therefore, it seems to me— I will frankly say, I have not moved any amendment and am not, therefore, directly concerned—that the matter is so important that, if you would not mind, it should be discussed on the floor of this House. Our rights to bring in Bills is so limited by the Government of India Act that, if we are not given the benefit of the few sections there are which give us the right essential to us, though little, this House will be very greatly handicapped in trying to do its bit in the matter of bringing legislation which is vital. Therefore, I would really like to know whether you are of opinion that under Rule 19, the Speaker is the final authority and that there is no right of appeal to the authority which is vested with the power of giving previous sanction. If you permit me, I shall refer to section 299, sub-section (3) of the Government of India Act in the light of the Bill for which permission has been asked by my learned friend. If I understand this Bill, technically it can be spoken of as a remedial measure.

The Honourable the Speaker: Let us keep clear of two issues. One issue that has been raised by the honourable member Mr. Parulekar is in regard to the interpretation of Rule 19 as to whether, when a question arises as between a member and the Speaker, the Speaker is the final authority. That is one issue. I have stated what my interpretation of Rule 19 is. As regards the question whether a particular amendment tabled by the honourable member Mr. Parulekar does or does not require sanction under section 299(3), it is an independent question. I have already intimated to the honourable member that I do not propose to have any discussion in this House over the question of his amendment. I have already come to a conclusion on that. I am prepared to

hear the honourable member, if he advances any argument on the interpretation of sub-rule (3) of Rule 19.

Dr. B. R. Ambedkar: Unless I am permitted to point out that the Bill cannot come within the purview of sub-section (3) of section 299 of the Government of India Act, it is futile for me to argue on the interpretation of Rule 19(3). If I am to convince you that Rule 19(3) does give a member aggrieved whose amendment has been rejected, the right of appeal to the Governor, then my submission is that section 299(3) will have to be considered. If you are not prepared to allow me to argue whether this Bill really does come within the mischief which is sought to be prevented by sub-section (3) of section 299 of the Government of India Act, it will be quite useless for me to argue. Reading sub-section (3) of section 299 of the Government of India Act, it seems to me that the Bill will have to be postponed until a member who is aggrieved has obtained the final sanction, because it has precluded the member from discussing the most important provisions of this Bill. It is shelving the whole question. If I am given the opportunity, I will show how. I have applied my mind to it. Neither this Bill nor the amendment tabled by my honourable friend Mr. Parulekar or members of my party can come within the proviso of sub-section (3) of section 299. If you permit me. I will do it in two minutes.

The Honourable the Speaker: So far as the individual amendments are concerned. I have already decided one way. Now, if, without any reference to any particular amendment, or any ruling I have already given in regard to it the honourable member wishes to say how the entire Bill is out of the scope of section 299, that will be a different question, and I am prepared to give him a hearing on that question. *Dr. B. R. Ambedkar:* I am obliged to you, Sir.

Sir, as I was saying, this Bill is a Bill which might be called purely a remedial measure. A person may obtain a decree from a court. That decree means that he has got certain rights as against a certain person. All that this Bill says is that whatever rights that person may have acquired as a result of a decree against a debtor or against any other person, those rights shall not be enforced until a certain date is reached, namely, 31st of March 1939. I understand that to be the gist of the Bill. Therefore, this measure deals with the enforcement of rights; it has nothing to do with the extinguishment or modification of the rights. That is my first submission. I would make a distinction between extinguishment or modification of a right which a person has got and the delaying or suspension of the enforcement of that right.

Secondly, sub-clause (3) of section 299 is confined to the extinguishment or modification of rights in land. Now, this measure does not confine itself to the execution of rights in respect of land; it extends also to debts and the eviction of tenants.

The distinction that I am seeking to make is this : that the suspension of the enforcement of a right is something very different from the extinguishment or modification of that right. The object of the Bill being merely to suspend such rights as the parties may acquire through decrees given by the courts, it is not a Bill which can be said either to extinguish or modify rights in land. Consequently, I submit that both this Bill and amendments which do not extinguish or modify rights in land would not come within the mischief of section 299(3).

* * * * *

Dr. B. R. Ambedkar : Supposing His Excellency were to accord sanction to such of the amendments as have been submitted to him, would you postpone the consideration of the Bill ? His Excellency may grant his sanction to the amendments just as he has done in the case of the Bill. In that event, what would happen ?

The Honourable the Speaker: I will certainly be glad to see that every amendment tabled gets a full chance of being discussed on the floor of the House and that no amendment is shut off on the ground of want of sanction. That is why I referred to the difficulty experienced by me when members sent in amendments at 12 or 1 O'clock today, when the Bill was before them for a long time. That is the difficulty which I have been feeling. That is the reason why I said that amendments should be tabled as early as possible. There are three honourable members who have tabled amendments today. It is difficult to scrutinise them all and to decide whether any of them requires sanction. There might be scope for honest difference of opinion. So I do not know whether in respect of all the amendments tabled now, it would be possible for me to waive notice. But, so far as the previous amendments are concerned, I will certainly try and see that the numbers do get an opportunity to move them.

30

ON THE BOMBAY POLICE ACT AMENDMENT BILL : 1

Dr. B. R. Ambedkar (Bombay City): Sir, I beg to move the following amendment to *the* Bill placed before us: After sub-section (2B) the following shall be inserted, namely :—

" (2C)(i) The Provincial Government may, if satisfied that the peace or public tranquillity in the City of Bombay or in any part thereof is disturbed or is likely to be disturbed in consequence of a conflict between different communities or sections thereof or gangs or factions, declare, by proclamation (hereinafter

referred to as " the proclamation of emergency ") in the *Official Gazette* that an emergency exists.

(ii) A proclamation of emergency—

(a) may at any time be revoked by a subsequent proclamation, and (b) shall cease to operate at the expiration of one month, unless before the expiration of that period has been renewed.

(iii) After the Provincial Government has issued under clause (i) a proclamation of emergency, the Commissioner of Police, whenever it appears to him that the presence, movements or acts of any person in the City of Bombay is or are causing or calculated to cause danger or alarm, or that a reasonable suspicion exists that designs, calculated to disturb peace or public tranquility are entertained by such person, may by beat of drum or otherwise, as he thinks fit, direct such person so to conduct himself as he shall deem necessary in order to prevent the disturbance of the peace or remove himself to such place or places, by such route or routes, and within such time, as the Commissioner of Police shall prescribe.

(iv) Any person aggrieved by an order made by the Commissioner of Police under clause (iii) may appeal to the Provincial Government within ten days from the date of such order.

(v) Subject to the appeal under clause (iv), an order made by the Commissioner of Police under clause (iii) shall be final.

(vi) Nothing hereinbefore contained in this section shall require any police officer to disclose to the person against whom an order is made under clause (iii) or to the Court the sources of his information or any fact the communication of which, might, in the opinion of the Commissioner of Police, lead to the disclosure of the identity or name of any informant.

(vii) Any order passed by the Commissioner of Police under clause (iii) or by the Provincial Government under clause (iv) shall not have any effect after the proclamation of emergency has ceased to operate." After sub-clause (2), the following sub-clause shall be added, namely:—

(3) In sub-section (3) for the words, brackets, figure and letter " or (2A) " the following shall be substituted, namely : —

" (2A) or (2C) " Question proposed.

* * * * *

Dr. B. R. Ambedkar : Sir, before I proceed to deal with the merits of the amendment which I have tabled, I think it would be desirable if I tried to show to the House the necessity of this amendment. The Honourable the Home Minister, in introducing the Bill, has stated that the City of Bombay and its citizens are a prey and a victim to certain undesirable characters who tyrannise

and molest the weaker section of the community, and the weaker section of the community has neither the determination or the desire to go to a court of law and obtain a conviction and punishment of such dangerous characters; and consequently, he thinks that it is necessary to arm the Commissioner of Police in the very interests of the people who are being molested by these dangerous characters, so that he should take action against him. Sir, I readily agree with what he said, that the danger to which he has referred is a very real one.

If the House would allow me to say so, I am very familiar with the kind of evil to which he has referred. I have spent a very great part of my life in what I may call the underworld of Bombay City. I have lived from 1911 to 1933 in the Improvement Trust chawls among labourers and the lower classes, and I know perfectly well, more than the Commissioner of Police or the Honourable the Home Minister, how these poor people are molested by what are called mavalis and dadas, how utterly impossible it is for these victims of their to obtain any redress, because they themselves, for fear of further molestation, would not go to court of law and seek to get a conviction. I therefore think that the Bill that has been brought forward is thoroughly justified by the circumstances of the case. But I felt that there was another danger to which the citizens of this city were subjected and for which he had made no provision in this Bill. Sir, the necessity to which I refer is the necessity arising out of what are called communal riots. I have here some figures relating to the communal riots that have taken place in the City of Bombay. Between the year 1851 and 1938, there have been altogether 9 communal riots in the City of Bombay. The first riot took place on the 17th October 1851. That riot was between the Muslims and Parsis. The second riot took place in the year 1874; that was also between the Muslims and the Parsis. The third riot took place in 1893 and it was between the Hindus and Muslims. The fourth was in 1929 that was also between the Hindus and Muslims. The fifth took place in 1932; the sixth in 1933; the seventh in 1936 ; the eighth in 1937 ; and the ninth on the 17th April 1938. All these were riots between the Hindus and Musalmans. In the riot of 1893, there were 80 persons killed, 60 temples were destroyed, 7 mosques were destroyed and 27 durgas were destroyed. I have not got the figures for the others. In the riot of 1929, 51 persons were killed; in the riot of 1932, 300 persons were killed and more than 300 were wounded. In 1936, 61 persons were killed and 550 were wounded. In the year 1938—I have not the exact figure—12 persons were killed and more than 120 were wounded. The rapidity with which these riots have taken place is also interesting and important which the House should bear in mind. As I told you, the first riot took place in 1851; the second riot took place within 23 years of the first riot; the third took place after 19 years of the second riot; the fourth riot took place 36 years after the

third riot; the fifth riot took place within 3 years of the fourth ; the sixth riot took place within one year of the fifth ; the seventh riot took place within 3 years of the sixth ; the eighth riot took place within one year of the seventh; and the ninth riot took place within less than one year of the eighth. Now, Sir, those of us who are conscious of these facts and who know the responsibility will agree that some remedy has to be found for this constant suspension of civilisation, the annual blood baths in which these two communities are indulging. I do not wish to enter into the reasons, the causes of these riots; whether they are political, whether they are religious or whether they are economic is a matter of no concern to us. The stark fact that a Muslim, without caring for anything goes and stabs a Hindu, and a Hindu, without caring for anything, stabs a Mohammedan is a calamity which we could never tolerate. I think the time has arrived when some measure ought to be forged whereby the authorities in the country will be able to deal with the menace effectively and expeditiously.

Referring to the merits of this amendment, the first thing I should like to draw the attention of the House to is that clause 3 of my amendment gives the Commissioner of Police the power to remove any person within the limits of the Bombay Presidency, if the Commissioner of Police has reasons to believe that the person is acting in such a manner that his presence, his movements, or his acts are responsible for the riot. That is the main aim of the Bill. Now, I fully agree that this clause in this Bill itself seems to impose a restriction upon the particular individual. But, Sir, I can say this. I come from a class which needs liberty more than any other class in society. I am by profession a lawyer and I understand the importance of liberty; but, with all that hankering for liberty, which is in me by reason of the interests of the class to which I belong and also by reason of the fact that I am by profession a lawyer, I cannot help saying that there are occasions when, in order to protect the liberty of the large mass of the people, the liberty of the hooligans, the criminal sections in the society, can be suspended. I have no hesitation on the point. The only thing, therefore, which worries me and which ought to worry the members of this House is this. Are there any safeguards laid down in order to see that this arbitrary power which we are now giving to the Commissioner of Police will not be misused. That is the only question I submit with which this House, having regard to the necessity of the occasion, could be concerned.

Now, Sir, my submission to the House is that there are ample provisions of safeguard in this amendment. Therefore, I will briefly refer to those safeguards. The first safeguard is this. Under this amendment, the Police Commissioner could never in practice, without the knowledge of the Legislature or the public at large, begin to exercise this arbitrary power. He can never do it, because, as honourable members will see, this power of the Police Commissioner will

commence and will vest in him, so to say, only after the emergency proclamation is issued. Before the emergency proclamation is issued, or before the emergency has been declared, the Commissioner of Police will not be able to exercise this power. That is one thing we have got to bear in mind with regard to the provision contained in this amendment. These powers will become operative only after the emergency proclamation is issued and this has a certain advantage from the point of view of the Legislature. It is this. If the Government issued a proclamation of emergency without any justification, then this House will have an opportunity to move an adjournment motion and condemn Government for having wrongly issued the emergency proclamation. This, I submit, is a control which this amendment gives to the Legislature in order to see that this power is not abused. The second advantage which this amendment gives is this. It may be that Government issue the proclamation of emergency and refuse to cancel or revoke the proclamation of emergency so that the Commissioner of Police begins to use the powers and continues using them, notwithstanding the fact that the emergency has ceased to exist ; as against this, there is a provision made in this to which I should like to call the attention of the House. By this very amendment, the proclamation will cease after one month, unless Government renew it, so that there is again an ample safeguard provided here that, after one month, the power shall cease to operate.

Another safeguard to which I should like to draw the attention of this House is sub-clause (vi), which is very important. Although this amendment gives the Commissioner of Police, the power to deport a person who, in his judgement, is causing communal riots, this order of deportation has a limitation to be appended, and that limitation is that as soon as the proclamation of emergency ceases to operate, the order automatically expires, so that a person who has been deported by the Commissioner of Police can return to Bombay. That again, I say, is a further safeguard.

Another safeguard to which I should like to draw the attention of the House is that as against the order of the Commissioner of Police there is an appeal provided to the Provincial Government. I agree that there may not be much in this, but still, as far as it goes, there it is.

Now, with regard to the other amendments that have been moved, just one or two things I should like to say. I think my honourable friend the Home Minister will agree that yesterday, when we drafted clause (1) of this amendment, it was agreed on all sides that this section was not to be used for labour troubles or for any other troubles, except those arising out of disturbances caused by communities in the sense of religious communities, or sections of communities having religious differences, or factions. All this, in my judgement, was confined

to purely communal riots. And I am perfectly prepared to be satisfied with the assurance given by the Honourable the Home Minister that it is intended not to be applied to any other. But if gentlemen in this House desire that there should be no lacuna left, no loophole left for the executive to use the provisions of this section for any other purpose than those for which it is intended, I am perfectly with them in order to make the meaning clear.

With regard to the word " presence ", I must say that I cannot support the amendment that the word " presence " should be omitted. The word " presence " must remain. I will give an illustration. A sadhu comes to Bombay; he is a persona grata with one community, he is not a persona grata with another community. A fakir comes to Bombay; one section venerates him, another section repudiates him. A communal riot starts on that account. Would it not be necessary that the very presence of this man should be removed from the City of Bombay in order that the riots may be quelled ? This, no doubt, may be an extreme illustration, but an extreme illustration is the only way of testing the validity and the effect of the power we give. Therefore, I submit. Sir, that the word " presence " is very necessary and should be retained in the Bill.

With regard to the other amendments, I have an open mind, because our intention is that the Bill should not apply to any riots other than communal. With these words, I move my amendment, and I hope the House will accept it.

* * * * *

Dr. B. R. Ambedkar (Bombay City): Sir, I am very glad to find that the amendment which I have moved has found support from many honourable members of the House who have spoken on the first reading of the Bill. I do not think the Honourable the Leader of the Opposition opposed my amendment although he had a great deal to say with regard to the Bill itself. My honourable friend, Rao Bahadur Chitale, has supported the amendment and the opposition of my friend Mr. Jamnadas Mehta, if I may say so, was not fundamental, but was tactical. In view of this, it is not necessary for me really to make any very lengthy reply to the comments that have been made, but there are only two matters to which I would like to refer. This is admittedly an emergency measure and as an emergency measure, it does involve a considerable amount of restraint upon the liberty of the individual.

Sir Ali Mahomed Khan Dehlavi: I wish to correct the honourable member. I do not know what authority the honourable member has to say that this is an emergency measure, which is not admitted by the Honourable the Mover.

Dr. B. R. Ambedkar : I am only replying with respect to my amendment. My amendment is an emergency amendment and, as I have admitted in my speech, it does involve a restraint on the part of the individual. I would like to

submit in connection with this that if those gentlemen who have spoken in regard to my amendment enlarging and emphasising the fact that it does involve restriction, I would respectfully invite their attention to refer to *the* Defence of the Realm Act that was passed in the time of war in England and to the Defence of India Act that was passed in India. Both of them were emergency measures and if any one of those gentlemen were to refer to the provisions of the Act, I am sure they will find that this amendment is a very mild amendment and let it be remembered further that this emergency legislation, for instance, the Defence of the Realm Act and the Defence of India Act lasted for over four years. The Defence of Realm Act in England was passed in 1914 and was not repealed till 1919 and the powers given to the police officers—1 happened to be in England then as a student—were certainly much vaster than the powers that are given under this amendment. Therefore, having regard to the emergency, I submit that the powers that are given to the Police Commissioner cannot be said to be unduly wide. Now, with regard to the other matters, namely, that this is a permanent measure, I would like to draw the attention of the House to the provisions contained in section 102 of the Government of India Act and which are very pertinent and very relevant on this occasion. Sir, section 102 of the Government of India Act is exactly what this amendment proposes to do. There too, the Governor-General has been given the power in his own discretion to issue a proclamation of emergency and during the period of that proclamation, the Governor-General is entitled to pass whatever law, by means of ordinances that may be necessary for the maintenance of peace and order.....

Sir Ali Mahomed Khan Dehlavi : Which the country does not approve of.

Dr. B. R. Ambedkar: Well, it is contained in the Government of India Act. Similarly, there is a provision in the same section that the emergency proclamation shall last for six months. I will read the relevant provisions :

" Notwithstanding anything in the preceding sections of this chapter, the Federal Legislature shall, if the Governor-General has in his discretion declared by Proclamation (in this Act referred to as a ' Proclamation of Emergency ') that a grave emergency exists whereby the security of India is threatened, whether by war or internal disturbance, have power to make laws for a Province or any part thereof with respect to any of the matters enumerated in the Provincial Legislative List." Sub-clause (4) says:

" A law made by the Federal Legislature which that Legislature would not but for the issue of a Proclamation of Emergency have been competent to make shall cease to have effect on the expiration of a period of six months after the Proclamation has ceased to operate, except as respect to things done or omitted to be done before the expiration of the said period."

Therefore, my submission to the House is that we are really not doing anything that is unusual having regard to the Defence of the Realm Act and the Defence of India Act and having regard to the provisions contained in section 102.

There was one comment which my honourable friend Mr. Jamnadas Mehta made that although my desire was to confine these emergency powers to communal conflicts and communal riots, the language used in this amendment is not such as would, in the end, confine the operation of this amendment to communal riots. His argument was that the word " community " does not necessarily mean religious community and that it is used as commercial community, industrial community and labour community and secondly, the Government will use its powers for the purpose of invoking this legislation even in labour disputes.

Now, my first submission on that point is this, that this part of the proclamation is certainly not going to be the subject of bearing the interpretation because it is a matter to be determined by the Government in its own discretion. It is not going to any court and the emergency proclamation is not going to be a question in a Court of Law as to whether it has been properly invoked or not, all that the court will be concerned in finding is whether a proclamation has been issued. Whether the proclamation has been properly issued or not would be a matter for Government and this Government would be amenable to this House if the Government uses its power to make a proclamation for purposes which are not intended either by Government or myself or any members of the Opposition.

The other thing that I would like to submit is this that I admit that the word " community " is used popularly in a wide sense, but before I came here I did refer to the Oxford Dictionary in order to satisfy myself, because I am myself more anxious than Mr. Jamnadas Mehta is, that this measure should not be extended to labour disputes.

Mr. Jamnadas M. Mehta: As anxious, not more.

Dr. B. R. Ambedkar: If you will allow me to say, I am more anxious. Therefore, I say that if you can suggest a better language I am perfectly prepared to accept any change that you propose, but so far as I am able to understand the word and so far as any help can be derived from a standard dictionary, I have no doubt in my mind that the word " community " does mean basically—apart from the extended use to which every word becomes subject—I have not the least doubt in my mind that the word "community", etymologically and basically is used only in the sense of religious community. The derivation seems to be those who are in communion. Communion is a religious word. A person ceases to be in communion when he is ex-communicated by a religious authority, he

ceases to be inside the community. That is the origin of the word. I am perfectly satisfied that this is not a word which can be so used as to bring in labour or strike or other situation. As I say if my learned and honourable friend thinks that this is not enough and, that another word is necessary, I am perfectly prepared to help him in that matter. With these words, I sit down.

* * * * *

Dr. B. R. Ambedkar: Sir, I find that my amendment as has been submitted does not contain a very material part which I intended to be a part of it, because I was proceeding on the draft that was given to us at the time of the conference. If you will allow me to supplement my amendment, it will be complete. The amendment is as follows:

In clause 2, sub-clause (1)(i), substitute the following for sub-clause (a) beginning with the words " that the presence ", etc. namely: —

" (a) that any person within the limits of the city of Bombay is by habit engaged in unlawful activities which are a menace to the residents of the city and who is so desperate and dangerous as to render his being at large in the City hazardous and who is habitually engaged in the commission of offences involving force or violence or any offence punishable under Chapter XII, XVI or XVII of the Indian Penal Code, and when in the opinion of the Commissioner witnesses are not willing to come forward to give evidence in public against such person; or."

* * * * *

Dr. B. R. Ambedkar: Sir, before I say what I have to say in support of the amendment which I have moved, it is perhaps necessary for me to make two preliminary observations. The first observation that I would like to make is this. The reason why I support the Bill brought forward by my honourable friend the Home Member, seeking to amend section 27 of the Act, is this. Much has been said in the course of the debates yesterday that the amendment gave more powers to the Commissioner of Police than the original section 27 did. Now having applied the Bill as a whole, I have not the slightest doubt in my mind that the amended section 27 will be of a much milder character than the section 27 as it stands today.

Therefore, I agreed to the suspension of the orders and to help the Honourable the Home Minister in getting this legislation pass through.

The second observation I should like to make is this. At the parties' conference where we had a discussion with regard to this amendment, I did say that I would support the measure which was agreed to at the time when we discussed the various proposals. My honourable friend the Home Minister

might say that, having taken that view at the time of the conference, it was not open to me to come forward with an amendment now. It is that which I would like to explain. Sir, when I agreed with the Honourable the Home Minister to support him, the amendment was confined to the principle underlying the Bill. The principle underlying the Bill, if I understand it correctly, is this. There are certain persons in the City of Bombay who are committing crimes and whose character is such that by reason of the terror they strike against their victims, the victims themselves do not come forward to give evidence in a court of law. Therefore, a regular trial could not be had. That is the principle, as I said, of this Bill. To that principle I stick. I am not deviating from that principle. All that I am seeking to do is to confine the category of persons against whom action can be taken by the Commissioner of Police without resorting to a regular trial by reason of the fact that the informants are not prepared to come before a Court of Law. Therefore, my view is that my amendment is an amendment of detail and not an amendment of principle.

Now, Sir, turning to the amendment, the first thing I should like to draw the attention of the House is this. The wording as it stands is that :

" that the presence, movements or acts of any person in the city of Bombay is or are causing or calculated to cause danger or alarm or a reasonable suspicion that unlawful designs are entertained by such person." It will be noticed that the language is of the mildest character. Secondly, it seems to me that the person who does a single unlawful act which has the consequence of causing danger or alarm or reasonable suspicion can be taken hold of by the Commissioner of Police and deported under the powers we are giving. I am sure that was not the intention of the Honourable the Home Member nor was it ever my intention. If I understand correctly the viewpoint of the Honourable the Home Minister, he said in the opening speech that in seeking powers under the amendment he has proposed that his main object is to get hold of pucca mavalis, to use his own words. If I understand the words " pucca mavali " my feeling is that a pucca mavali is a person who habitually does something which is dangerous and desperate and who habitually indulges in unlawful activities. If that is the intention of the Honourable the Home Minister he should have no objection in seeking that the intention he professed on the floor of this House is embodied in specific terms in the law itself. It is, therefore, from that point of view I have sought to amend his language by emphasising that the person must

be doing all these things by habit :

" that any person within the limits of the city of Bombay is by habit engaged in unlawful activities which are a menace to the residents of the city and who is so desperate and dangerous as to render his being at large in the city hazardous

and who is habitually engaged" The rest of the amendment is like that of the honourable member Mr. Pataskar. I take it the Honourable Minister has no objection to that amendment being an official one.

What I have sought to do is nothing new. I have taken the wording from section 110 of the Criminal Procedure Code. Section 110 of the Criminal Procedure Code gives power to the police to prosecute a man before a Presidency Magistrate or District Magistrate if he is by habit a robber. I have taken the wording from sub-section (a) of section 110 and subsection (f) of section 110. It might be argued that under section 110 of the Criminal Procedure Code, even if a person is by habit a robber and even if a person is a desperate and dangerous character action cannot be taken against him without a trial. Why do you want to take action against him, because he is in the city of Bombay ? That kind of argument may be used. My justification for that is that we are dealing with cases where persons are not prepared to come before a court of law to give evidence and that is the reason why I have consented to give the Commissioner of Police the power of an extra-judicial and extra-legal kind. In giving such powers it is necessary to restrict and define the category of persons against whom action can be taken. My submission is that the House will do well in defining the class by saying that the person must be doing unlawful acts by habit and not by accident. With these words, I commend my amendment to the House.

31

ON THE BOMBAY POLICE ACT AMENDMENT BILL : 2

Dr. B. R. Ambedkar (Bombay City): Sir, I am sorry to find that my amendment, as worded by me, has created a wrong impression, a totally different impression from what I wanted to have by my amendment. I would like to say one thing at this stage. I do not think this is an occasion on which any one of us should really stand on dignity. And I would like to say this over again, because I think the occasion is a very important occasion. Sir, I also like to say this that the Honourable the Home Minister has not taken into consideration, in making his reply that we have already amply empowered him to deal with cases of emergency and the powers which we have given him by my amendment which is so wide in character that he can deal with persons who have merely entertained designs in their minds and I beg to remind him of that. Therefore, Sir, having armed him with the most extensive powers possible to deal with an emergency, it is perfectly proper for members on this side to adopt, if I may say so, a somewhat carping spirit in giving him powers for normal occasions. He has totally forgotten that the amendment with which we are dealing now is an

amendment which gives powers for normal occasions. It does not deal with abnormal situations, and therefore I do not see any conceivable case in which the Police Commissioner exercising the power that we are giving him under my amendment would not be able to deal with the situation. I therefore submit that it would be in the interest of the public and in the interest of all sections concerned, that my amendment should be accepted. Sir, I do say that this is a very important occasion and the Bill deals with so important a subject, namely, the liberty of the citizen that I think it is one of the most eminent occasions on which, as far as possible, there should be agreement on all sides. I therefore appeal to the Honourable Home Minister not to stand on dignity, as I am not standing on dignity at all, and to accept this amendment.

Sir, I accept the amendment of my honourable friend Mr. Chundrigar and also the amendment of my honourable friend Mr. Bhole.

The Honourable Mr. K. M. Munshi: It is not a question of standing on dignity. We went into every word, considered the implications of every suggestion. After that there was no question of a person habitually engaged.

Dr. B. R. Ambedkar : Better thoughts come again some times.

The Honourable Mr. K. M. Munshi: Sir, as I said, there is no question of dignity. The question is of difference of opinion, because if in every case we have to find out whether a man engaged is habitually engaged and not a man who is about to engage for the first time, he would escape. It would reduce the section to nullity and the Police Commissioner or the Government would also be reduced to a worse position than they are in under the existing section.

Dr. B. R. Ambedkar: My honourable friend must understand that no member on this side is opposed to taking powers to deal with gangs. In fact, the Opposition says : " Retain gangs ". If you want to have an amendment to deal with gangs. I am prepared to support it; I have not the least objection. I remember that the Leader of the Opposition said that power should be given, to deal with gangs. But you are wanting power to deal with individuals and, therefore, we are putting these restrictions. If we are to deal with gangs, by all means, let somebody bring in an amendment and I for myself would support it, provided it is a reasonable amendment. Here, you are dealing with individuals.

Sir, if you like, we might adjourn for a short time and have a discussion.

Mr. S. H. Jhabvala: Sir, you see this shows the utility of a select committee I proposed.

The Honourable Mr. K. M. Munshi: Sir, I am quite willing, but it is no use adjourning for such a thing. I am trying to convince the honourable mover of the amendment that by putting the word "habit" there, he has reduced the operation of this section practically to a nullity. I cannot consider it further, unless he is willing to drop the word "habit". If he wants to keep the word "habit" in the

section, then the section becomes more or less useless. That is why, I say it is no use adjourning. There is no common ground.

Sir Ali Mahomed Khan Dehlavi: That describes the pucca mavali. *The Honourable Mr. K. M. Munshi:* A pucca mavali is not necessarily a person engaged habitually in unlawful activities. He may be a mavali in the sense of a bully or a dada. Members are putting something in my mouth which I never said. When I said " pucca mavali " I did not say a person habitually engaged in unlawful activities. That is what you are attributing to me.

Sir Ali Mahomed Khan Dehlavi: Sir, I should like to say that when the Honourable Minister said " pucca mavali " we at once understood that there were a number of classifications of mavalis in his own mind.

The Honourable Mr. K. M. Munshi: That I agree ; there may be a series of mavalis.

Dr. B. R. Ambedkar : Surely, the Honourable Minister does not want to deal with the case of a man who has done once a certain thing. *The Honourable Mr. K. M. Munshi:* I gave the honourable member the instance of the gang which came down from Calcutta. There were 11 persons who had not committed an offence, but who were about to engage in certain unlawful activities. They had not been convicted in Calcutta in spite of the vigilance of the Police there. Some of them were persons who were—

Dr. B. R. Ambedkar: If the people have been committing offences in Calcutta, they would be habitual. It does not mean that one should habitually commit an offence in Bombay.

The Honourable Mr. K. M. Munshi: They were not convicted for carrying on unlawful activities.

Dr. B. R. Ambedkar: May I draw the attention of the Honourable Minister to the wording of my amendment? It is ";who is so desperate and dangerous as to render his being at large in the City hazardous" A member of a gang would come under this.

The Honourable Mr. K. M. Munshi: If the honourable member will have patience, I will tell him. "The man may not be desperate as I gave you the instance of the leader of the very coterie which I mentioned. He was perhaps moving there in Calcutta in a motor-car. He was a European and was accepted in good society in Bombay, but he was not a desperate character in the sense that he took a lathi and ran about in the streets.

Dr. B. R. Ambedkar : But the word dangerous is there.

The Honourable Mr. K. M. Munshi: Now, Sir, what is meant by the word " dangerous "—

Dr. B. R. Ambedkar: I have taken the words used in the section and I am sure they are perfectly intelligible words.

The Honourable Mr. K. M. Munshi: Sir, the words "dangerous and desperate " are intended for bullies who are running amok and threatening people or proving dangerous in the physical sense of the term. They would not apply to the head of a counterfeiting gang.

Dr. B. R. Ambedkar: But there is a separate chapter altogether which deals with that, namely. Chapter XVI of the Indian Penal Code, which I have omitted.

The Honourable Mr. K. M. Munshi: But you have stated "habitually engaged ".

Dr. B. R. Ambedkar: Sir, I may mention to the House that the words which I have now proposed will restrict the scope of the section only to the persons of a certain type and will not include the large number of cases of persons who would be included even by the present section as it stands.

The Honourable Mr. K. M. Munshi: Sir, as the honourable member himself has admitted that the words restrict the scope of the Bill, and if that is the case, there would be no meaning in having this Bill at all. If it is going to water down the section to such an extent, it becomes a useless weapon for the purpose for which it is designed. Therefore, it is not possible for me to accept the amendment. - *The Honourable the Speaker:* I have now to put the amendment and the amendments to the amendment to the House. I will first take up the amendments to the amendment. So, I will first put Mr. Bhole's amendment to the amendment of Dr. Ambedkar. Need I read it ? (Honourable Members : No). So, I will now put the question. Question put.

The Honourable the Speaker : The Noes have it.

Dr. B. R. Ambedkar: Sir, it was only a question of expressing the intention. It is not an amendment of substance at all.

The Honourable the Speaker: It is not, and, after all, the amended amendment of the honourable member Dr. Ambedkar will have to be put to the House at the end. So, it makes really no difference either way. I shall take the voices again. Amendment put, and agreed to.

* * * * *

Dr. B. R. Ambedkar (Bombay City): Sir, I rise to support the amendment which has been moved by my honourable friend Mr. Chundrigar. The amendment requires that, before the Police Commissioner takes any action on the material in his possession, he should produce the person, whom he wants to expel, before the Magistrate and place the material before him and shall not take any action, unless the Magistrate is satisfied. Obviously, that amendment is intended as a further safeguard in order to see that no arbitrary action is taken by the Commissioner of Police. Now, Sir, whether this amendment which is by way of a safeguard asks something which is more than due to those persons or whether it is something that is unnecessary, is a matter which I think

can be better understood if one institutes a comparison. Now, I take the case of the revolutionary, those who indulge in revolutionary crime. It is obvious that these persons who are intended to be dealt with by the present amendment to the Bill are certainly not so great a source of danger as the revolutionary. Obviously, therefore, they certainly need a far greater safeguard. a far greater protection, than the revolutionary. Now, let us stop for a moment and ask what are the safeguards that did exist in the law of India as against revolutionary criminals ? I do not want to go into the past history of the matter but I have before me the report of what is called Sedition Committee that was appointed by the Government of India in 1913. The terms of reference do say " to report upon the existence of revolutionary movement in India, to examine the difficulties that arise in dealing with criminal conspiracies and to suggest measures for bringing such offenders to book." It is unnecessary for me to go into the revolutionary crime in India which has been dealt with exhaustively by the Committee. What is relevant for the purpose is the safeguard that was suggested by the Sedition Committee. The House might be interested in knowing the composition of this Committee. Therefore, I may mention the names of the gentlemen who constituted this Committee : Mr. Justice Rowlatt, Judge of the King's Bench Division, Sir Basil Scott, Chief Justice of Bombay, Diwan Bahadur C. V. Kumaraswami Sastri, Judge of Madras High Court, Sir Verney Lovett, Member of the Board of Revenue, United Provinces and Mr. C. P. Mitter. The Committee consisted of a large number of persons who were judiciary minded. It is a fact that during all the period that Government of India wanted to deal with revolutionary crime, they have accepted the principle that the revolutionaries, before they are punished, must be tried by a tribunal. They were never dealt with by judicial action. The point was that the tribunal consisted of persons who were engaged in the executive of the Government of India. The Committee says in paragraph 182 :

" While, however, we recommend in substance the procedure established under the Defence of India Act, we think the constitution of the tribunals as provided by these Acts should be altered. It seems to us inadvisable that these tribunals should to any extent be composed of persons not already members of the judiciary but selected by the executive for the purpose of the specific case. Nothing that we have seen suggests that the special tribunals hitherto appointed have been unfair towards the accused, but we think the objections in principle cannot be overlooked. Moreover, as the right of appeal is taken away, the tribunals should be of the highest strength and authority."

If this safeguard is necessary for the purpose of seeing that nothing that is harsh and nothing that is unjust is done to revolutionaries, I submit every man of common sense will think that a far greater safeguard is necessary for dealing

with persons contemplated in this Bill. After all, what is it that the amendment asks ? The amendment does not ask that a tribunal consisting of Magistrates should be appointed in order to investigate the allegations made by the Police Commissioner against a person whom he wants to send out of the city. Nothing of the kind is asked for. Nor does the amendment demands that the material, when placed before the Magistrate, shall be investigated into as though it were a trial. The amendment does not require that the Police Commissioner, when he places the material before the Magistrate, shall disclose the name of the informants. Nothing of the kind is asked for. The amendment is of the mildest character. It does not require the Magistrate to sit in judgement over the material of the Police Commissioner. All that it says is this, that the Magistrate may look into it and give a certificate that it is a satisfactory case in which the Police Commissioner may, if he chooses, act. Now, Sir, by all standards, I am prepared to say that this is the mildest kind of safeguard that could be provided and ought to be provided. I submit, Sir, that in view of the fact that the amendment of the honourable member Mr. Pataskar has now been carried and the powers of the Police Commissioner are more unlimited than they would have been if my amendment had been carried, it becomes all the more incumbent upon the opposition as well as upon the whole House to see that this little safeguard—1 call it a very little safeguard—is provided in this Bill, in order to see that the Police Commissioner does not act in an arbitrary way.

32

ON THE BOMBAY POLICE ACT AMENDMENT BILL : 3

Dr. B. R. Ambedkar: What I would like to submit is this. What we have done by accepting the amendment of the honourable member Mr. Pataskar is this. We have laid down as a direction to the Commissioner of Police the cases in which he can exercise the power that are given to him. The direction is that he shall exercise his powers only in cases where in his opinion witnesses are not willing to come forward to give evidence in the public against the person. That is a direction given to him, that he has to exercise the power given to him only in cases where in his opinion witnesses for reasons of safety are not willing to come forward to give evidence. In sub-clause (2), the Bill lays down a certain procedure which the Commissioner has to follow, and it is this. Firstly, the Commissioner has to give particulars of the charge; secondly, the Commissioner has to give an opportunity to the man to explain the charge; and thirdly an opportunity has to be given to the man to bring his witnesses. This subclause (6) deals with the right of a criminal court to question the order passed by the Commissioner of Police. What does this section do ? This

section merely says this : that the court shall have authority—I am putting it positively—to see whether the procedure prescribed under this Bill has been followed or not. The first thing that the Commissioner is asked to follow by way of procedure is, to present the particulars of the charge; secondly, he must give an opportunity to the person to explain the charge: thirdly—a matter which was omitted in the original, but which was part of the judgement of the High Court—that the Commissioner must have material before him. That has now been added by the amendment moved by the honourable member Mr. Pataskar. Now, my submission is that we have also added by the clause that we have passed that this power should be exercised only in those cases where witnesses for reasons of safety are not willing to come forward. What the honourable member Mr. Bhole's amendment seeks to do is to add one more ground on which the High Court quash the order. As the sub-clause is now worded, the High Court could quash the order if the particulars of the charge were not presented to the man, if an opportunity was not given to him to explain the allegations against him or his witnesses were not examined, and lastly—according to Mr. Pataskar's amendment—there was no material before the Commissioner of Police upon which he could have passed his order. What the honourable member Mr. Bhole seeks to add is that the condition that has been laid down in part (1) of the amendment of the honourable member Mr. Pataskar, namely, that witnesses are not willing to come forward to give evidence shall also be one of the grounds on which the magisterial court could quash the order. Therefore, it is not a limitation upon the authority of the Magistrate. There is a procedure prescribed, and all that the clause says is, that the High Court or the magisterial court shall see that all these kinds of procedure are followed by the Commissioner of Police. The honourable member Mr. Pataskar does not seek, nor does anybody here seek, that the High Court or the magisterial court shall sit in judgement over the question whether the material was reliable. All that is needed for it to see is (hat the Commissioner had material. Similarly what the honourable member Mr. Bhole seeks to do is that the court should see that the Commissioner of Police had really taken into consideration the fact whether witnesses were prepared to come. The. honourable member Mr. Bhole's amendment does not seek to give the High Court or the magisterial court the power to sit in judgement over the question as to why the witnesses were not prepared to come. The High Court or the magisterial court is not to sit in judgement over that question and say " These are grounds on which nobody ought to be satisfied". The finality of judgement is with the Commissioner of Police. What the amendment of the honourable member Mr. Bhole seeks to do is. to bring into this clause a condition which we have imposed by passing the amendment of the honourable

member Mr. Pataskar, which is a procedural condition, so as to make the Bill a complete whole. There is no conflict between the amendment we have passed and the honourable member Mr. Bhole's amendment. All that is necessary is to add the words " in the opinion of the Commissioner ", and I move it.

* * * * *

Dr. B. R. Ambedkar : May I explain, Sir ? The position, briefly is this We have given certain powers to the court under renumbered sub-section (7) ; when a person is brought before a Magistrate for breaking the order of the Commissioner, the Magistrate has power to see that the proper procedure was followed. One of the things that the Presidency Magistrate has to see is whether the Commissioner had material before him. Now, this clause says that when the matter comes up before the Presidency Magistrate, the Commissioner or some other person will have to go into the witness box in order to inform the court that he had some material on which he could act. This clause says that in giving this evidence either the Police Commissioner or some other officer whom he may depute shall lead to the identity of a person or the identity of a property. I am explaining the place of sub-clause (8); the place of sub-clause (8) is that it comes into operation when the order is being considered by the Magistrate to see whether it is proper or not, that is to say, whether it was passed according to the procedure. One of the things that the Magistrate has to see is whether there was material before the Commissioner, because that is one of the conditions; and in proving what the material was, the question may arise whether the Magistrate will have the right to compel the Commissioner of Police to disclose all information, including such as would lead to the identity of the person or property. This clause says that while giving evidence the Commissioner of Police may withhold such information as he may have and, which would lead to the identity of the person or property. That is the place of sub-section (8).

* * * * *

Dr. B. R. Ambedkar: Sir, I would like to move this amendment, namely:—

For the words " hereinafter appearing " the following words shall be substituted:—

" and for the purpose of dealing with habitually dangerous characters and for the purpose of preserving public peace and tranquillity during communal riots."

That is the amendment which I wish to move.

The Honourable the Speaker: I was just referring to the amendment of the honourable member the learned Doctor in which he had moved for the application of this Act to habitual offenders. I am inclined to the view that even this part of the amendment will be out of order in view of the decisions taken by the House.

Dr. B. R. Ambedkar : Sir, I would like to submit that the Bill, which is now before the House, has two-fold purposes, namely, one purpose is to deal with communal riots and therefore I submit that that part of my amendment which refers to communal riots is perfectly in order. The Bill also deals with certain provisions which are intended or calculated to deal with what in the terms of the Honourable the Home Minister, are regarded as mavalis and which I submit is translated *by* the words " habitually dangerous characters ". My amendment is merely intended to make clear the two-fold purpose which this legislation has in view. One purpose is to deal with communal riots and the other purpose is to deal with what are called " mavalis ". I submit, therefore, that my amendment is in order. If, however, that is objectionable, I am prepared to use the words " for the purpose of controlling the activities of " mavalis " .

The Honourable the Speaker: The difficulty about that will be that the word " mavali " is not defined in the Act. It is not an expression which is defined in any Act.

Dr. B. R. Ambedkar: Sir, my submission is that the preamble is not going to be the subject matter of judicial interpretation. The preamble merely contains a rule of guidance for the purpose for which we are to use this Act and I therefore submit that even though the word " mavali " has not been judicially interpreted, it is a term which is so well-known today to both the Honourable the Home Minister and the Commissioner of Police that I think: there should be no difficulty about it.

The Honourable the Speaker: The amendment is to be divided in two parts—one referring to habitual offenders, as the honourable member has stated, is the one which he is prepared, I understand, to drop.

Dr. B. R. Ambedkar : No, I am prepared to split it into one dealing with persons who are either dangerous characters or mavalis, and the other I submit is a direct reference to the amendment which gives the emergency powers.

The Honourable the Speaker: The other I can see. If divided into two. parts, then about the first, I think that even the expression used " mavalis " will not.....

Dr. B. R. Ambedkar: Then my amendment will be this :—

" for dealing with persons who are dangerous characters ". I am prepared to take away the word " habitually ". The preamble is intended to make clear our intentions.

Mr. Jamnadas M. Mehta: I submit. Sir, that the learned Doctor's amendment should be held perfectly in order, because it is now realised that the whole Bill has two intentions; one to deal with an emergency and the other to deal with characters which are described in the Act. The preamble must express what the House has enacted ; otherwise the preamble will be incomplete and will not

express what the object of the Bill is.

The Honourable the Speaker: I am not considering any technical objection. I am only considering how the phraseology would express what has been stated in the Bill and what has been passed by the House.

The Honourable Mr. B. G. Kher: May I suggest to the honourable member that the word " dangerous " is vague ? It must be " dangerous to society ", " danger to the city " or something to that effect. We are accustomed to receive telegrams " so and so dangerous, start immediately ". The word "dangerous" by itself is vague.

Dr. B. R. Ambedkar: I may suggest "for the purpose of dealing with persons who are a danger to the residents of the City of Bombay for preserving the peace and tranquillity during the riots ".

The Honourable Mr. K. M. Munshi: You have left out "factions and gangs " during riots. The words of the section are " between communities, factions and gangs".

Dr. B. R. Ambedkar: We can put it this way: "for preventing disturbance of public peace and tranquillity by reason of conflicts between communities and sections thereof, and gangs and factions ".

The Honourable the Speaker: This is what I have taken down : "for the purpose of dealing with persons who are a danger to the City of Bombay and for preventing disturbance of public peace and tranquillity by reason of conflicts between communities and sections thereof, or gangs or factions."

The Honourable Mr. K. M. Munshi : " And for other purposes hereinafter mentioned ".

Dr. B. R. Ambedkar: What other purposes?

The Honourable Mr. K. M. Munshi: "And other purposes hereinafter mentioned".

Dr. B. R. Ambedkar : What are the other purposes ?

The Honourable Mr. K. M. Munshi: There are various procedural purposes also.

Dr. B. R. Ambedkar: Then, I will make it clear by saying " and for prescribing, the procedure for dealing with such cases ".

The Honourable the Speaker: Is that all necessary in the preamble ? We should not make it cumbersome.

The Honourable Mr. K. M. Munshi : There is the question of immigrants also in the Act. And so, " other purposes hereinafter mentioned " is necessary.

Mr. Jamnadas M. Mehta: " Hereinafter " is not necessary.

Mr. S. V. Parulekar: We may adjourn till tomorrow, so that we may arrive at an agreed wording.

The Honourable the Speaker: It seems there is agreement as to the

substance, and now it is only a question of phraseology. The amendment now moved being accepted in substance, it may be incorporated in the Bill at this stage, and later on, at the third reading any verbal amendments necessary may be made.

The Honourable Mr. K. M. Munshi: Sir, may I have the final word ? I do not want to miss these immigrants.

The Honourable the Speaker: This is what is being proposed by the honourable member Dr. Ambedkar : " Instead of the words ' hereinafter appearing ' substitute:

'for the purpose of dealing with persons who are a danger to the City of Bombay and for preventing disturbances of public peace and tranquillity by reason of conflict between communities and sections thereof or gangs or factions, and for certain other purposes hereinafter appearing'."

The Honourable Mr. K. M. Munshi: I accept the amendment.

Dr. B. R. Ambedkar : May I know what other purposes there are ?

The Honourable Mr. K. M. Munshi: For dealing with immigrants.

Dr. B. R. Ambedkar : The immigrant is an object and not a purpose.

The Honourable Mr. B. G. Kher: The question is that immigrants who come into the city with certain diseases have to be dealt with. It is not the object of the preamble to describe all purposes seriatim. " Certain other purposes hereinafter appearing " clearly means the purposes embodied in the Bill itself. No other purpose can be brought into the Bill.

The Honourable the Speaker: Are the words " for certain other purposes " to be taken out ?

Sir All Mahomed Khan Dehlavi: They must disappear, because we are dealing with section 27 only and not the Act as a whole.

The Honourable Mr. B. G. Kher: If you do not want it, we are willing to take it out.

The Honourable the Speaker: The consensus seems to be that the word "hereinafter" should remain. The amendment would then read : In place of the words " hereinafter appearing ", substitute the following:

" of dealing with persons who are a danger to the City of Bombay and for preventing disturbance of public peace and tranquillity by reason of conflict between communities

The Honourable Mr. B. G. Kher: May I suggest that the phrase should be " public peace or tranquillity " and not " public peace and tranquillity " ? So also, " by reason of conflict between communities or sections."

The Honourable the Speaker: "..... disturbance of public peace or tranquillity by reason of conflict between communities or sections thereof or gangs or factions, and for certain other purposes hereinafter"

Sir All Mahomed Khan Dehlavi: " Or for certain other purposes "; I think we agreed to that ?

The Honourable Mr. K. M. Munshi: I will agree to anything.

Mr. R. A. Khedgikar: Are we not to be given a chance to examine the wording ? We have not, fully understood it.

The Honourable the Speaker: I am now reading the final draft. It is open to correction, in case I have committed any mistake.

Mr. S. V. Parulekar: Will you give us an opportunity of studying the amendment before we make up our mind about it ? The amendment is very long, and we do not know the implications of it just now. So, we should be given an opportunity to study it. It may be taken up for discussion.

The Honourable the Speaker: As I stated, the preamble, after all, merely tries to give a summary, and a very general summary, of what is following.

Dr. B. R. Ambedkar: It is a direction to the executive authority.

The Honourable Mr. B. G. Kher : We are willing to accept anything that you propose.

Mr. Jamnadas M. Mehta: Anything that will shorten this discussion will be welcome! (Laughter)

The Honourable the Speaker: It is therefore that I am suggesting the final wording as it seems to have been agreed to. I am reading the whole amendment again; honourable members will please hear it patiently:

" In place of the words ' hereinafter appearing ', substitute the following:

'of dealing with persons who are a danger to the City of Bombay and for preventing disturbance of public peace or tranquillity by reason of conflict between communities or sections thereof or gangs or factions and for the purposes hereinafter appearing'."

Mr. Jamnadas M. Mehta: " Other " must be there.

The Honourable the Speaker : " And for other purposes ".

Dr. B. R. Ambedkar : " Such as dealing with immigrants ".

The Honourable the Speaker: After all, lawyers know as to how a preamble is construed and what importance is attached to it so far as the construction of the sections is concerned. If I may be permitted to say so, I do not think this point is really such as to be such a debatable point as that.

Mr. Jamnadas M. Mehta : " Other " must be there, because those which are mentioned previously are also purposes.

The Honourable the Speaker: "And for other purposes hereinafter appearing".

Mr. Jamnadas M. Mehta: That will do.

The Honourable Mr. K. M. Munshi: I accept the amendment.

The Honourable the Speaker: So then, I take it that this will be the wording.

(Interruption). The phraseology is taken from the sections, themselves.

Dr. B. R. Ambedkar: I accept it.

33

ON THE CITY OF BOMBAY MUNICIPAL AC AMENDMENT BILL

Dr. B. R. Ambedkar (Bombay City, BycuHa and Parel): Sir, I rise to support the amendment moved by the honourable member Mr. A. V. Chitre. Sir, the amendment is that in addition to the 4 councillors who are to be elected by the workers' delegates there should be two councillors elected by the municipal workers. Now, the reason why I think this amendment ought to be supported is this. There is no doubt about it that the municipal workers are directly interested in the administration of the Municipal Corporation. They are under the authority of the Municipal Commissioners, they are under the authority of the various officers employed by the municipality under whom they are working. Now, Sir, having regard to the municipal constitution, there is one thing which is clear and abundantly clear and that is that these municipal workers have no right of redress against any order that may be passed by their superior officers. Their position is certainly very much different from the position of the ordinary civil servant who is working under the Government of Bombay. For instance, any civil servant, whether he is employed in the provincial service or subordinate service, has a right of appeal given to him in the case of any order passed to his prejudice. There is no such provision in the Bombay Municipal Corporation. Any order may be passed by any officer against any municipal worker and that worker has no right of redress. One of the advantages this amendment will give to the municipal workers is that any order that may be passed by any officer under the Bombay Municipal Corporation, could be ventilated through their representatives on the floor of the Corporation and certainly this amendment will enable them to get some redress. They do not possess this advantage under the present constitution.

The Honourable Minister in charge said that we are now providing for adult franchise and, because we have provided for adult franchise, it is not necessary to provide any representation for organised labour. I am sure the Honourable Minister has not paid efficient attention to what provisions he has introduced in the Bill which is before us. What I would like to ask the Honourable Minister is this, whether in his opinion adult franchise is the sovereign remedy which the municipal workers can depend upon for obtaining sufficient representation. In that case, there is no necessity to provide for the representation of four councillors for labour. "There is no need to provide for the representation of the Bombay Chamber of Commerce, the Indian Merchants" Chamber and the

Millowners' Association, because they can find representation through the ordinary channels of election. If adult franchise is sufficient for securing representation to labour, obviously the provision that is made for the four councillors to be elected by the delegates is unnecessary. Therefore, it is open to argument that the reason why it is provided that four places should be elected by labour is due to the fact that he is conscious of the fact that labour will not secure representation through the ordinary channels of election, although there may be adult franchise. If there is a necessity of providing representation for labour through labour constituencies, then I submit that it is for better reason for providing special representation for the municipal workers who are far more interested in the constitution and working of the municipality than labour in general. I submit on this ground that this amendment ought to be supported by this House.

34

ON PROHIBITION

Dr. B. R. Ambedkar: Sir, I realise that the feelings of this House on the matter of prohibition run very high; not that I do not share those feelings, but for other reasons I do not wish to be harsh to the Honourable the Minister for Excise. I realise that he is a new man for the office. I realise also that it is a very wrong place for a man to be in. I congratulate him on the courage he has shown in accepting the place which another honourable member of this House thought it better to leave.

I rise to speak on this subject simply because I feel that what has fallen from the Honourable the Minister for Excise during the last two or three days has left the impression on me that he will fall into the bud old ways, which are the established ways of this department. In course of the interpolation that we had the other day, to my mind, he made somewhat an extraordinary statement. He stated that he opened a shop somewhere near the borders of the Nizam's Dominions because the Nizam had opened a shop in our territory. Sir, I do not think that is an argument which a Minister who has accepted the policy of prohibition ought to advance in this House. That argument amounts to something like this; that because a dacoit has committed dacoity and carried away some booty which the Honourable the Minister for Excise could have done himself that he himself is entitled to commit the dacoity. Sir, a wrong committed by one does not justify another to commit a similar wrong. The best policy for my honourable friend the Minister for Excise to adopt was to remonstrate with His Exalted Highness the Nizam for having opened shops near our territories. Instead of doing that he has placed the interest of revenue

over and above the interests of the people of this Presidency.

It seems to me that my honourable friend the Minister for Excise looks only to revenue exclusive of every other consideration. In the course of the debate on the budget he also made a statement which I think ought to be taken seriously into consideration. In reply to certain criticisms which I offered he said that in judging of the policy of the Excise Department we ought to take into consideration the amount of consumption of liquor in the presidency and not the amount of money that is raised by the Excise Department. He gave us certain figures to show that the people of Bombay were not drinking as much as the people of the other provinces in India. I have not had the time to look into those figures, but I think we may accept the figures as they were given by the Honourable the Minister for Excise. But I think, Sir, that my honourable friend will admit that while people are drinking less of licit liquor, the manufacture of illicit liquor in this presidency has been on the increase. So, if we take into consideration the fact that although drinking of licit liquor is decreasing, drinking of illicit liquor is on the increase, the result that we get is that the consumption is not less. Of course we have not got the actual figures of illicit manufacture, but I believe the fact is admitted, I think the Honourable the Minister for Excise will be first to urge it, that illicit liquor is increasing. So, on the whole we are not gainers, because the only result is that people are drinking less of licit liquor and more of illicit liquor. The question that then arises is, why is the manufacture of illicit liquor increasing in this presidency? So far as I am aware, there has been no official reply to this question. But I venture to give a reply for it for what it is worth. I think, Sir, the increase in the manufacture of illicit liquor in this presidency is entirely due to the high tariff on country liquor. Now, it is an admitted principle of political economy, not only a principle which is embodied in text-books, but I believe it is also a principle which is acted upon and known to every housewife that when the price of a certain commodity rises, then, there is always a tendency on the part of the people to substitute another commodity in its place which is equally serviceable and which costs less. We all know, for instance, that when sugar rises in price people will substitute gul in place of sugar and if coffee was to rise in price people will consume more of tea. Applying the same principle to this case, I submit, Sir, that the increase of illicit drink in this presidency is entirely due to the high tariff on country liquor. My honourable friend the Minister for Excise will therefore pay a little more attention to this aspect of the question. If he is really a believer in prohibition he must regulate his tariff. If he does not regulate the tariff, I submit that although he may succeed in controlling the consumption of licit liquor, he will give a direct incentive to the increase in illicit liquor.

The other point that I wish to speak of is as regards the policy of prohibition. I

was glad to hear from my honourable friend the Leader of the House in reply to certain arguments urged by my honourable friend Mr. Murzban, that prohibition is now the accepted policy of Government, and that Government under no circumstances would go back on the policy resolved upon by the Legislative Council. But, Sir, I was a little disappointed when, as I believe, he side tracked us a little from the real issue before us. He told us that the issue before the House was, what method we should adopt in bringing about prohibition, whether we should adopt the method of rationing or whether we should adopt the method of local option. Sir, in my view the two methods, making allowance for minor details, are more or less equally efficient. Whether you adopt the policy of rationing or whether you adopt the policy of local option, makes no difference in the situation whatsoever, because the effect of either is to control the supply of liquor that will be put on the market. Whether you do it by not supplying more to the shop-keepers or whether you do it by not opening shops at all. the result is the same. But, Sir, the question is how far we can go on in advancing the policy of prohibition and that question, I think, my honourable friend the Leader of the House has not taken into account. I feel, Sir, that the problem of prohibition, whether you will be able to carry it out to a successful issue or not, entirely depends upon the financial solution of the question, upon how we will manage to make good the losses we are bound to incur as a result of our new excise policy. I think we on this side of the House would have liked to hear a good deal from the Honourable the Leader of the House as to the kind and method of taxation that he has in contemplation. Sir, I think although there might be differences of opinion in this House, we at least on this side feel that we are not opposed to the additional taxation, provided of course the Government will use the taxes for nation-building proposes. We are certainly opposed to additional taxation if Government are going to use the taxes merely to maintain the Government, merely to govern. But if they are going to make life happy, and not merely try to make life possible, then, I think we on this side are certainly willing to support any tax. The honourable member the Leader of the House tried to repudiate the charge of insincerity that was made against Government. Sir, I think no Government ought to make any promise as regards carrying out a policy of prohibition unless it has made up its mind as to how it will make good the loss of revenue. Unless therefore my honourable friend has got the courage—that is far more important than mere conviction—unless he has the courage to tax the people who have not been taxed so far, people who have better capacity to bear the burden, I think it is no use his trying to incur the odium of making a promise and not carrying it out. The best thing for the Honourable the Leader of the House would have been to bring forward a proposal for taxation and to test the sincerity of this House as regards the policy

which it has been asking him to pursue. I think the House understands as well as anybody that this policy is going to cost money, and it was the duty and interest of my honourable friend the Leader of the House to have obtained from the House an assurance that it was willing to meet the cost of the policy it was so strenuously enforcing upon him. With these remarks I beg to resume my seat.

35

ON MATERNITY BENEFIT BILL

Dr. B. R. Ambedkar: Sir, I rise to support the first reading of this bill. And in doing so I just wish to reply to a few points that have been raised in the course of this debate against this bill. The Honourable the General Member, in speaking against the bill, first of all, pointed out that this is not an accident—accident as we understand it under the Workmen's Compensation Act, and, therefore, the principle of the Workmen's Compensation Act cannot be extended to the women who would be entitled to get the benefit under this particular bill. I admit, Sir, that this is not an accident. But it does not follow from that, that women are not entitled to get the benefit which the proposed bill desire to confer upon them. The principle on which this bill is based is altogether biased. There is absolutely, I believe, unanimity on this proposition that the pre-natal conditions which affect the mother are an important factor in the bill and the subsequent bringing up of the child. I do not think anybody will controvert that proposition. And I believe, therefore, Sir, that it is in the interests of the nation that the mother ought to get a certain amount of rest during the pre-natal period and also subsequently, and the principle of the bill is based entirely on that principle. That being so, Sir, I am bound to admit that the burden of this ought to be largely borne by the Government. I am prepared to admit this fact because the conservation of the people's welfare is primarily the concern of the Government. And in every country, therefore, where the maternity benefit has been introduced, you will find that the Government has been subjected to a certain amount of charge with regard to maternity benefit. But that being so, Sir, I am not prepared to admit that the employer who employs a woman, under such circumstances, is altogether free from the liability of such benefit in the interests of the woman and the reason for this is this. There is no doubt that an employer employs women in certain industries because he finds that there is a greater profit to be gained by him by the employment of women than he would gain by the employment of men. He is able to get *pro rata* larger benefits out of women than he would get by employing men. That being so, it is absolutely reasonable to say that to a

certain extent at least the employer will be liable for this kind of benefit when he gets a special benefit by employing women instead of men. I, therefore, say that although there ought to have been some liability imposed on the Government in the matter of maternity benefit, I think the bill is not altogether wrong if it seeks to impose the liability under the present circumstances on the employer. I, therefore, support the bill on that account.

It is stated that this bill is applied only to factories and not to other industries or to the agricultural occupation. The reply to that is very simple. It is to those industries where the conditions are such that they particularly affect the health of a woman that this principle is extended. In agriculture and other occupations the women are not exposed to those dangers or to those factors which obtain in factories and which affect the health of the women working in those factories. That is the reason why, for instance, such legislation is usually confined only to factories. The same may be said, for instance, with regard to the Workmen's Compensation Act. That Act applies to accident which may arise in factories in the course of the employment of labour for this very reason, and you will find that legislation is confined only to factories and not to other occupations.

Now, in respect of the burden on industries, the Honourable the General Member said that it will result in the reduction of wages. I am not certain whether it will result in a reduction of wages. Even if it does, it will mean that the burden on the industries will to a certain extent be shifted elsewhere and the Honourable the General Member ought therefore to have no objection on that ground. If this bill is passed, my submission is that the burden will probably be shifted on to the consumer and if it is shifted on to the consumer, the society as such ought not to object to pay the larger price for the produce in order that the producers who produce it may be benefited.

Then, it is said that it is unjust to confine this bill to the Bombay Presidency only and that it ought to be extended to the whole of India, and that other Presidencies and provinces in India ought to be put on a par with the Bombay Presidency. My submission to you, Sir, is this. Suppose that this bill is applied to the whole of British India, what is there to prevent somebody rising up and saying, " Why should this bill be confined to India only and not to other countries ? India will be put at a disadvantage with respect to the other countries of the world and therefore let us wait till the whole world adopts the principle of this bill and then we may all be on a par with each other ". I submit that there is no substance in this argument and I think, therefore, the benefits contemplated by this bill ought to be given by this Legislature to the poor women who toil in our factories in this Presidency.

ON PUNISHMENT OF WHIPPING

Dr. B. R. Ambedkar: Sir, after having heard my honourable friend the Honourable Mr. Bell, who is in charge of this Bill, and the honourable member the Remembrancer of Legal Affairs, I do not think that there remains any necessity for arguing a case for the necessity of this measure; nor does there remain, in my opinion, any necessity for arguing the question whether whipping is a proper punishment. That we have had very serious riots in the city of Bombay and often in the mofussil, which have been a disgrace to Indian society and Indian civilization, no honourable member, I am sure, can dispute. That whipping as a method of punishment is on the Indian statute book is itself sufficient argument against those who say that we are making a new departure. Consequently, Sir, the only point that remains for discussion in my humble judgement, is whether the provisions of the Bill, as they are framed, go beyond the necessities of the occasion. That seems to me to be the only point that survives for discussion.

Sir, having read the Bill, having applied my mind to clause 2 of the Bill, which is the substantive clause, I find some difficulty in agreeing to the provisions as they are worded in clause 2. That clause as it stands says that the provisions of section 4 of the Whipping Act shall apply to every offence of rioting which may come within sections 146 and 148 of the Indian Penal Code. Now, Sir, I was under the impression that this measure was contrived and devised for the special purpose of dealing with what are called communal riots. Riots, Sir, may be of various sorts; the purpose, the motive, the occasion may be different. We may have a riot arising out of an industrial strike in the city of Bombay; we may have a riot which is occasioned by a casual fracas between poor people who assemble together for asserting a certain right over certain properties which they may, however illegally but in their honest belief, think belong to them. Sir, this House ought to know that the offence of rioting really arises out of an offence of unlawful assembly. An unlawful assembly becomes a riot when that assembly uses force. That is the definition given in section 146 of rioting. Now, an unlawful assembly, although it may not be an offence which we can overlook, is certainly not such a serious offence as to invite such a terrible punishment as whipping. Consequently my view is this, that if we are to introduce this punishment of whipping, we ought to amend clause 2 in such a manner that it shall become applicable only to those riots which may be said to arise out of a communal fracas and not to any other riots. The clause as it is, I submit, is worded so broadly as to embrace almost any riot, which may be occasioned by anything which may be of a very passing character or which may be so normal in human affairs that we really ought not to extend this

punishment to such cases. And the Indian Penal Code, I submit, has very wisely provided the ordinary forms of punishment for ordinary offences of rioting. If this Bill is a necessity it can be a necessity only for the special purpose of dealing with a communal riot and for no other purpose. If my honourable friend the Home Member is prepared to alter the wording of clause 2 in such a manner that this punishment can be made applicable only to offences arising specially out of communal riots, he will have my support.

That is all that I have to say on this occasion.

37

ON MINISTERS' SALARIES BILL

Dr. B. R. Ambedkar (Bombay City, Byculla and Parel): Mr. Speaker, I rise to make a statement, and I use the word " statement " very advisedly. I am not moving an amendment to the Bill which has been proposed by my honourable friend the Prime Minister, nor do I propose to carry this matter to a division. The Ministers' Salaries Bill, I think, ought to have been an agreed measure, and it need not have been carried through, as the Ministry proposes to do, by a purely party vote. That course the Ministry has not chosen to take, and I am therefore bound to make this statement with the simple object of lodging a protest against the principle of the Bill. Notwithstanding what the Prime Minister has said in moving this Bill—and no doubt every member of this House will feel a greater degree of respect for him for the sincerity with which he spoke and for the high principles he has enunciated regarding the conduct of Ministers—taking the view of the situation as a practical man, looking at things from a practical point of view, I do not think that I can accept the standard salary for Ministers which has been laid down in this Bill.

Sir, before I explain the reasons why I think that this should not be a standard salary for the Ministers, I would like to place before the House some figures relating to the salaries which are paid to Ministers outside India and also to Ministers in India, so that the House may at the outset be able to realize what a great departure we are making from the standard that exists today. I have here with me a few figures which I have collected. In the Irish Free State there are 11 Ministers; every one of them is paid a salary of £ 1,700 per annum, which according to my calculation comes approximately to Rs. 2,000 a month. In South Africa there are 13 Ministers, 2 without portfolio. The Prime Minister is paid £3,500 per annum; the other Ministers are paid £ 2,500 per annum, which according to my calculation comes to Rs. 2,900 per month. I have not been able to get the figures for Australia, but the figures for Canada are as follows . The Prime Minister gets \$ 19,000 per annum; there are 16 Ministers in Canada

altogether, and the Ministers get \$ 14,000 per annum, which includes \$ 4,000 for sessional allowance. In New Zealand there are 12 Ministers. The Prime Minister there gets £ 1,800 plus a residence, and a Minister gets £ 1,370 per annum which includes £200 for house allowance, so that the salary for the Minister comes to Rs. 1,500 per month.

Coming to India and leaving aside for a moment the salaries that were paid before the new Government of India Act came into operation, and taking the salaries that were fixed for the interim Ministers—and nobody could say that the interim Ministries were not Ministries which were, to some extent at any rate, responsible to public opinion—these are the figures which I find from a table submitted to Parliament. In Madras, the Prime Minister was paid a salary of Rs. 3,000, and each of the Ministers was paid Rs. 2,500 plus a house. In Bombay the salary was Rs. 4,000 for the Prime Minister, and for the Ministers Rs. 3,500 each. In the United Provinces each Minister including the Prime Minister was paid Rs. 2,500. In the Central Provinces the Prime Minister was paid Rs. 3,000, and each Minister was paid Rs. 2,250. In Bihar the Prime Minister was paid Rs. 2,500 and a Minister was paid Rs. 2,000. In Orissa the Ministers were paid Rs. 1,000 each.

Now, Sir, compare these figures with the figures proposed in the Ministers' Salaries Bill. There can be no doubt that there is a great departure from the prevailing standard. It seems to me that the difference is not merely a difference of degree but is a difference of kind, and I submit a difference of kind is a difference of principle. What are the considerations that ought to prevail in the fixing of the salary of a Minister ? In my judgement, Sir, there are four considerations which ought to prevail. The first is the consideration of the social standard of the Ministers, who are undoubtedly the social leaders of the community; secondly, considerations of competency; thirdly considerations of democracy; and, fourthly, considerations of integrity and purity of administration. I am not prepared to push the first consideration to any unreasonable length. Personally, I should have thought myself that the Ministers of the country, who are the first citizens of the country, should lead a life which is cultured, which cares for art, which cares for learning, and which ought to be a model for the rest. But if our friends do not care to consider that aspect of the case, as I say, I am prepared to leave it out of consideration altogether. But surely the consideration of competency, the consideration of democracy and the consideration of integrity could never be overlooked in fixing the salaries of Ministers. I do not know what view the Honourable the Prime Minister takes of the duties and functions of the Ministers. If the view is that the Ministers are to do nothing more than go about and unfurl flags and receive salutes from crimson clad ladies forming guards of honour, then that is

a different proposition. In my view, and I want to emphasise it with all the emphasis I am capable of, if there is anything we expect from the Ministry, it is competency. I have no doubt in my mind that of the three organs of the State, the legislature, the executive and the judiciary, the executive is the main spring of action. It is the executive which is to study the problems that are facing the country; it is the executive which is to show what solutions can be proposed for solving those problems; in short, Sir, it is the executive that must be the brain trust, if we are to solve the various problems with which we are faced and to get the best out of this constitution.

The question that arises in my mind is this, whether the salary that is proposed is a salary which is capable of inviting men who are capable and who have the necessary competence to face the problems and suggest remedies. Looking at the question dispassionately in the light of the circumstances which I see prevalent in this country, I cannot give, Sir, an affirmative answer. First of all, there is this fact to be considered, namely, that there are other walks of life in which the prizes are far greater than the prizes which have been provided for the Ministry. Many people who have competence, who have ambitions, will seek other walks of life rather than come to the Ministry and have the responsibility of the Ministry. I could have understood if the ministry was legislating that nobody should receive a salary of more than five hundred in any walk of life. If they had done so, things would have been otherwise. But they are not doing so. They are driving away competent men in other walks of life. This is one aspect of the matter. The second aspect to be considered is this. Looking at the situation in India, I cannot help saying that the intellectual class from which you can draw men who are competent enough to undertake the responsibility is very very small. Sir, in this country, on account of the social system which has been prevalent and which the British regime has not been able to damage very much, education was confined to a small class. Education has never been the privilege and the opportunity of many. In fact, under the Chatur Varna it is only one class who could take education and the rest were debarred. Consequently, a large mass of the people are absolutely so situated that they cannot throw forth leaders who can be taken in the Ministry to carry on the administration. Therefore, my submission is that the salary is not a salary which can invite competent people to carry on the administration.

Now, Sir, coming to the question of democracy, what will be the effect of the salary ? I would not mince matters. I would straightway say that the consequence of this salary will be this : Either there would be people who do not care for money, who have private means but who want to capture political power in order that they may use that political power for the advancement of their own class or their own community. That would be one consequence. The

other consequence would be that men who cannot make any money in other walks of life will get into the Ministry. There can be no other consequence. (Laughter.) My friends may laugh, but I have no hesitation in saying that that will be the consequence of this Bill. There can be no greater disaster if what I apprehend comes true. We want that the political power which is given under the Government of India Act should not be cornered or monopolised by a few who have money and who do not care for salary. Nor do we want in the interest of the masses that the power should go into the hands of incompetent people.

Coming to the other question, namely, the integrity and purity of administration, a friend of mine who is Congress-minded said one thing which I would like to repeat on the floor of this House. He said that if the Governor were to give him a contract for the supply of Ministers, he would very readily undertake the contract and also give something to the Presidency of Bombay for giving him that contract. I think, Sir, that remark is very pregnant. There are hotels in Europe who pay to the managers to allow them to wait. That shows what possibilities there are open to people who are not kept above temptation to pick something which they cannot get by way of pay. I am not saying anything in regard to the present Ministry, because we are discussing the principle of the Bill, not at all personalities involved. Even with higher salaries I admit, and readily admit, that you can never buy the dishonesty of a dishonest man. Pay him any salary you like, if he is dishonest, he will be dishonest. That is, however, not the consideration. The consideration is whether you cannot fix your salary in such a way that the Minister will be kept beyond temptation. Sir, we have had in this province a salary of Rs. 4,000 and a salary of Rs. 3,000, and yet there were scandals relating to the administration. If even with salaries of Rs. 3,000 and Rs. 4,000 it is not possible to avoid scandals. I fear very much a salary of Rs. 500 may produce far greater scandals than have been produced in the past. In this, the question that arises for consideration is not merely whether the salary is adequate. But my view is that it is not the close of the argument. The problem of salary has to be considered from two points of view. From the standpoint of the individual the consideration is one of adequacy. From the standpoint of the State the consideration is a consideration of safety and purity of administration. A man may say that a particular salary is an adequate salary for him. But it does not follow that you should not consider whether from the public point of view it is a safe salary. Lowest standard is not necessarily a safe standard. I believe my friends opposite will have, when they give contracts, to enter a clause that contracts shall not be given merely because the tenders are the lowest. Just as we do not give contracts to persons simply because their standards are the lowest, similarly we cannot allow persons to serve as ministers merely because they are prepared to

accept the lowest salary. We have to consider the other side of the question whether the contractor who is offering the lowest tender is capable of discharging the obligations of his task. Therefore, I am suggesting that, though the Honourable Minister may say that Rs. 500 salary is good enough, it does not dispose of the argument. The House has to consider whether on this basis it can expect and hope to have an administration which is free from corruption may possibly arise.

Now, Sir, I should like to read to the House a small extract from the report that was made by the committee appointed by the House of Commons in the year 1920 in order to suggest the principles on which the salaries of the Ministers ought to be fixed. This is what the committee observe :

" There are probably few subjects open to more varieties of opinion than the precise amount of salary suited to any given office of Government; and the Committee disclaiming all pretensions to any infallible rule on a question necessarily so vague, will nevertheless submit some preliminary observations upon the general principles by which they have been governed in the conscientious discharge of an ungracious duty.

" It is impossible not to recognise in its fullest extent the principle, that the people have a right to have their service done at the smallest possible, consistent with its efficient performance. Whether public servants sit in Parliament or not, the principle is the same. The only justification for taxes of any sort, is either necessity or evident public utility. If, notwithstanding the consecutive gleanings of different committees of the House, any sinecures are still existing no time should be lost in abolishing them; and it will be seen in the course of this report, that the Committee have not failed to do their duty by more than one case of this description.

" If any offices are overpaid they should be reformed. If any can be united with others with benefit to the public this useful species of economy should not be neglected and several suggestions of this sort will be found in the evidence which it is not within the powers given to the Committee to follow up. In short, all departments of Government should be watched with the same view to economy in general which any individual would apply to the management of his own affairs.

" It is almost unnecessary to observe that these general principles do not lead to the absurd conclusion, sometimes imputed to them, that a willingness to accept low pay is any qualification for office. Economy, to deserve the name must be rational; and no consideration of more money can be set in competition with the paramount evident necessity of securing for offices of great trust and confidence the highest class of Intelligence and Integrity. It has been frequently observed, and the observation being founded on truth and reason should never

be lost sight of that offices in a free country should not be put beyond the reach of men of moderate fortune. If salaries should be fixed too low a monopoly would be created in the hands of the wealthy, the power of selection by the Crown would be most injuriously restricted, and the public would be deprived of the services of men of limited means, educated with a view to the pursuit of liberal professions, a class furnishing more than any other the talents and industry suited to official life.

" It should be further considered, that the higher offices of Government require an entire devotion of the whole time and attention of those who fill them; that their own private affairs must necessarily be neglected; and that if care should be taken on the one hand to avoid the scandal of private fortunes amassed at the public expense, it is neither for the interest nor for the honour of the country, on the other hand that they should be ruined in its service."

I submit, Sir, that these are principles which any ministry who cares for the service of the country and for the purity of the administration, ought to bear in mind. And I do not think that the present ministry in fixing the salary of Rs. 500 has shown any regard to the principles which I have read out.

Now, Sir, what are the principles that have been suggested for the salary that has been *fixed* in the Bill ? The one thing I have heard often said is that the salaries ought to be in accord with the income of the people. I ask the question, if that is so, can it be said that Rs. 500 salary is in accord with the income of the people ? What is the income of the people ? I have here figures given in the " Harijan "—I suppose a standard authority—from which I may quote.

The Honourable Mr. B. G. Kher: I am glad you read it.

Dr. B. R. Ambedkar : I do always read it. According to the figures given here, the income per head in the United Kingdom is £ 50 per annum; in the United States of America, £ 100 ; in France, £ 40 ; in Australia, £ 70 ; in Canada, £ 75 ; in India, £ 4. (*The Honourable Mr. B. G. Kher:* Hear, hear.) Now, Sir, if all this is done on the principle that the salaries ought to be in accord with the income of the people, then I do not understand how it can be suggested that the salary of Rs. 500 a month is in accord with the £4 income of the people of this country. Surely, if my honourable friend is basing the Bill which he has placed before us, on this principle, namely, that the salary should be in accord with the income of the people, then Rs. 500, I submit, is a most extravagant sum to take for the ministry; it ought to be less than Rs. 100; it ought to be Rs. 75, as was suggested. If they are honest, if they want to fix this sum as a matter of justice and not to placate the people, then why not be logical in your honesty ? Why fix a sum which is out of all proportion to the income of the people?

The second thing that has been suggested in justification of the low salary is that the ministers ought to live in such a manner that they should look as

though they were of the people, that there should be no distinction between ministers on the one hand and the private citizens on the other. Sir, if this is the object of the ministry, that all distinctions should be abolished, that they should look as though they were of the people, that the people should have full confidence in them as though they belong to the people, then, my submission is that this is not the method of winning the confidence of the people. Sir, in this country, the cleavages, social and religious, are far greater than they exist anywhere else in the world. We have here—I am speaking of this presidency for the moment—we have the division of Brahmins and non-Brahmins ; the division of the touchables and the untouchables—I am confining myself again to the Hindus—we have the division of Maharashtrians *versus* Gujaratis; we have the division of Gujaratis *versus* Kanarese. And add to all that the difference between the Hindus and the Mohammedans. If you want to create confidence in the administration, then, I submit that the proper way of doing it is not for the ministers to go about in the streets half clad, showing their anatomy ; or smoking bidis in place of cigarettes; or going in third class or in bullock carts. Nobody is going to be deceived by these things. If you want to gain the confidence of the people, then, I submit that the only way of doing it is to constitute your Government, your ministry, your civil services, in such a way that it does not become the monopoly of any particular class or any particular community. (Cheers.) We shall watch what the ministry is going to do about it. But if they want to pretend that they are going to create confidence by doing these, what I might call, puerile things, then, I submit it is an attempt that is doomed to failure.

Then, Sir, the ministry has come forward with what might be called an act of renunciation on their part. It reminds me of the conduct and the way of life of medieval monks. The medieval monks when they started their careers as monks were required to take the three vows—the vow of celibacy, the vow of chastity, and the vow of poverty.

I do not know whether my honourable friends have taken the vow of celibacy. (Laughter) I suppose it is too late for them now to do it. I do not know whether they have taken the vow of chastity. But if they have and if they break it, it is certainly not a matter of grievance for this House. But they certainly have taken the vow of poverty, as I see from this Bill. Can they keep this vow ? The medieval monks very seldom succeeded in maintaining their vow of chastity, but they always succeeded in maintaining their vow of poverty. Why was it so ? That was because the monks had no families; they were single, solitary individuals, with no obligations to any one. The ministers in this respect stand in a different situation altogether. They have certainly large responsibilities arising out of their families and their children. I cannot see how they can succeed in

keeping up to their vow of poverty. I wish them success, but I doubt very much whether they will be able to do it.

Mr. A. V. Chitre : They will be drawing their dividends ?

Dr. B. R. Ambedkar : Now, Sir, there is one other matter which I would like to speak about. Is there any necessity for this Bill ? Personally myself, I do not think that the Bill is a necessary Bill. Nobody can compel the Honourable Ministers to take more than what they desire. And surely, without bringing in the Bill, and allowing the salaries fixed by the Governor to remain at the figure at which they are fixed, they could take Rs. 500 and return the rest either to the State or to the Party chest, whichever they liked ? Why is it they do not do that ? Why is it that they are bringing in this Bill ? And that is where the catch comes in. I venture to say that this Bill is not put forth out of any pious motive; there is a strategy behind it. That strategy is this, that they should always remain in the saddle and nobody else should take their places.

The Honourable Mr. K. M. Munshi: You are welcome!

Dr. B. R. Ambedkar: This reminds me of how at the Round Table Conference the Conservative Party was trying to strengthen its provision by introducing certain clauses in the Government of India Bill which could have no other purpose except to restrict the freedom of action of the Labour Party. Many of us used to question them as to why they wanted certain clauses to be introduced into the Government of India Act which apparently had no justification. They could give no reply, but everybody knew that what they were doing was really to forestall the Labour Government should it ever come into power, and prevent it from undoing what the Conservative Party wanted to do. If my learned friends want to adopt that policy, they are welcome to do so. We cannot prevent them. All I want to say is that this is a misuse of their power.

Let me at this stage make it clear, because I am likely to be misunderstood, that when I am protesting at the salary of Rs. 500 as being too low. I am not at all suggesting that the salary of Rs. 4,000 or Rs. 3,000 which was suggested by the Interim Ministry was a standard salary. Nobody need draw that conclusion, because I am not going to say that Rs. 4,000 or Rs. 3,000 is a proper salary. I bind myself to no figure. All I say is that Rs. 500 is not a proper salary for a Minister. The statement I have made will no doubt leave me open to the criticism that I am suggesting an extravagance. But I do not feel any embarrassment in making the suggestion that the salary ought to be more than that fixed in the Bill. I am certainly not a recipient of the salary, if it was increased; and, so far as I can see the future, I do not think that I shall ever be a recipient of it.

The Honourable Mr. B. G. Kher: Do not despair.

Dr. B. R. Ambedkar: Well, I need not answer my learned friend, But his policy

is what it is; he certainly has deliberately excluded members of the Scheduled Classes from his Cabinet.

The Honourable Mr. K. M. Munshi: They may not like Rs. 500 !

The Honourable the Speaker: Order, order.

Dr. B. R. Ambedkar: I do not feel any embarrassment in making this proposal, because I am not going to be a recipient of this salary. My motives are motives purely of public policy. Dr. Johnson said that patriotism was the last refuge of scoundrels. He could very well have said that politics also was the last refuge of scoundrels. And it is because I do not want that politics in India should become the last refuge of the scoundrel that I have risen to speak.

* * * *

Dr. B. R. Ambedkar (Bombay City): Sir, I would just like to say a word to my honourable friend the Prime Minister, whether the whole of the difficulty could not be solved by putting in a lump sum rather than putting in all these different items. I am only suggesting it to him whether we could not then say that a consolidated salary of so much—Rs 750 per month should be paid to a Minister. I am only suggesting for his consideration whether that would not solve the difficulty.

The Honourable Mr. B. G. Kher: Sir, I thought I had made clear what we had done in Poona, where there were four Government residences available. In Bombay also there will be Government residences available. Those Ministers as also the Speaker and the President who will get accommodation in Government bungalows will not need and will not be paid any allowances. There is no question of consolidating the allowances with salary. For residences which are available from the Government and which they occupy they do not get an allowance. If they have their own houses, whether they choose to occupy them or not is entirely left to them. But for the purposes of a house allowance, we consider that Rs. 100 per month is a reasonable provision. That being the position, I do not think it will be possible to consolidate the salary with the allowance. The arrangement that we have followed in Poona seems to have worked well; the arrangement in Poona was to divide the Government residences available, and I can assure the honourable member Dr. Ambedkar that we are now accommodating in one Government bungalow two or three Ministers where including the out-houses formerly only one Minister used to occupy it in solitary dignity. If we do the same thing in Bombay, after providing residences for the Ministers as also for the Honourable the Speaker and President, there will be some Government residences perhaps available for letting. Therefore, more retrenchment will follow as a result of the arrangement that we have in view.

Dr. B. R. Ambedkar: I am only trying to point out a way out of the difficulty

which has been raised, namely, that the word "allowance" does not occur in the section of the Government of India Act which refers to the salaries of the Ministers. In order, therefore, not to give rise to any contention that an allowance has been fixed in addition to salary which may not be permissible under the Act, what I am suggesting to my honourable friend is that he might consolidate the whole thing and call it salary and drop the word " allowance " *and* thereby get out of the difficulty. Of course, we have yet to know from the Advocate-General whether the point raised has any substance in it.

[Contents](#)

[Part III](#)